CODE OF ORDINANCES OF THE CITY OF NORTH ADAMS MASSACHUSETTS, v32

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PREFACE

This volume, as originally published, constituted the first revision and codification of the general ordinances of the City of North Adams, Massachusetts, since 1954. It contained the Charter and such of the ordinances of a general and permanent nature passed prior to March 24, 1964, as were found desirable for retention, except these expressly saved from repeal by section 1-2 of the Revised Ordinances.

The Revised Ordinances, as now supplemented, contain ordinances adopted through the date indicated on the page of instructions for handling supplemental pages.

The ordinances were codified, edited and indexed by the Editorial Staff of Michie City Publications Company under the supervision of Chas. W. Sublett and Stephen C. Wilard.

The publishers wish to express their appreciation for the cooperation of all the city officials and employees during the preparation of this publication, Particular acknowledgment is due Mrs. Mildred G. Manson, City Clerk, for her assistance during the progress of the work.

A feature to which the attention of the user is directed is the arrangement of the chapters in alphabetical order. Attention is also directed to the analysis preceding each chapter which, in many instances, will serve as an index within itself. The general index, carried at the end of this volume, has been carefully prepared and should serve as an an accurate medium for locating the individual sections of law within the Revised Ordinances. In the footnotes appearing throughout the Revised Ordinances will be found references to the Charter and the applicable laws of the Commonwealth. These notes also contain cross references to other and related provisions in the Revised Ordinances.

It is a recognized fact that if any revision of ordinances is to accomplish its intended purpose it must be kept up to date to means of an adequate supplemental service. Accordingly, the publishers point out the advisability and necessity of keeping this volume current.

This volume, constituting the Revised Ordinances of the City is presented to the officials and citizens of the City of North Adams, Massachusetts, in the belief that it will merit their approval.

MICHIE CITY PUBLICATIONS COMPANY
CHARLOTTESVILLE VIRGINIA

PART I
CHARTER AND SPECIAL ACTS.

CHAPTER 1. THE CHARTER.

Editor's note.--The Plan A form of government was accepted by the City of North Adams at the city election held November 2, 1965.

Set out herein are the provisions of §§ 1 to 55, of Chapter 43 of the General Laws of the Commonwealth, as amended to the date of this publication.

(Chapter 43, General Laws, as Amended.)

General Provisions.

Sec. 1. Certain terms defined.

The following words as used in this chapter shall, unless the context otherwise requires, have the following meanings.

"Officer", "officers" and "administrative officers", when used without further qualification or description, any person or persons in charge of any department or division of the city. The said words when used in contrast with a board or members of a board, or with division heads, shall mean any of the persons in sole charge of a department of the city.

"Ordinance", a vote or order of the city council entitled "ordinance" and designed for the permanent regulation of any matter within the jurisdiction of the city council as laid down in this chapter.

"Plan A", a city government and legislative body composed of the mayor and a city council, the councillors being elected at large.

"Plan B", a city government and legislative body composed of a mayor and city council, the councillors being elected partly at large and partly from districts or wards of the city.

"Plan C", a city government and legislative body composed of mayor and commissioners as hereinafter specified.

"Plan D", a city government and legislative body, to be known as the city council, composed of seven or nine members, one of whom shall be mayor and shall be the official head of the city, and an administrative officer, called the city manager.

"Plan E", a city government and legislative body, to be known as the city council, composed of seven or nine members, one of whom shall be elected as mayor by and from such members and shall be the official head of the city, and an administrative officer, called the city manager; the members of the city council and the elective members of the school committee to be elected at large by proportional representation.

"Plan F", a city government and legislative body composed of a mayor and a city council, the councillors being elected partly at large and partly from wards of the city, with the mayor and city councillors to be nominated in party primaries.

"Elected at large", elected by and from all the voters of the city.

"Proportional representation", any proportional representation method of election authorized by sections ninety-three to one hundred and sixteen, inclusive.

"Regular municipal election", the annual or biennial election of municipal officers for which provision is made in this chapter, (1915, 267, I, § 1; 1922, 237, § 1; 1938, 378, § 1; 1948, 459, § 1; 1959, 448, § 1, approved. Aug. 10, 1959; effective 90 days thereafter.)

Sec. 2. Certain cities may adopt one of the plans of government provided.

Any city, except Boston, which shall adopt, in the manner hereinafter prescribed, one of the plans of government provided in this chapter shall thereafter be governed by the provisions thereof; and the inhabitants of such city shall continue to be a municipal corporation under the name existing at the time of such adoption, and shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all duties, liabilities and obligations provided for in this chapter, or otherwise pertaining to or incumbent upon said city as a municipal corporation. (1915, 267, I, § 2).

Sec. 3. Legislative powers not abridged.

None of the legislative powers of a city shall be abridged or impaired by this chapter; but all such legislative powers shall be possessed and exercised by such body as shall be the legislative body of the city under this chapter. (1915, 267, I, § 3.)

Sec. 4. Ordinances, etc., in effect until repealed, etc.

Ordinances, resolutions, orders or other regulations of a city or of any authorized body or

official thereof, existing at the time when such city adopts a plan of government set forth in this chapter, shall continue in full force and effect until repealed, modified or superseded. (1915, 267, I, § 4.)

Sec. 5. Existing organization to continue until superseded.

Until superseded under this chapter, the organization of the executive and administrative departments, and the powers and duties of the officers and employees of any city adopting any of the plans provided for in this chapter, and the fiscal year of such city shall remain as constituted at the time of the adoption of such plan; but the city council or other legislative body may at any time by ordinance, consistent with general laws, reorganize, consolidate or abolish departments, in whole or in part; transfer the duties, powers and appropriations of one department to another, in whole or in part; establish new departments; and increase, reduce, establish or abolish salaries of heads of departments or members of boards. This section shall not authorize any action in conflict with chapter thirty-one.

This section shall not authorize the city council in any city which adopts Plan D or E, to take any action to accomplish any result not contemplated by the provisions of the said plans. (1915, 267, I, § 5; 1938, 378, § 2; 1948, 459, § 2.)

Sec. 6. Number of wards to continue until changed according to law.

The territory of a city adopting any of the plans of government provided for in this chapter shall continue to be divided into the same number of wards existing at the time of such adoption, which shall retain their boundaries until changed in accordance with general law. (1915, 267, 1, § 6.)

Sec. 7. Filing of petition calling for vote on adoption of plan.

A petition addressed to the city council, signed by qualified voters of the city to a number equal at least to ten per cent of the registered voters it the state election next preceding the filing of the petition and in the form provided in section eight may be filed with the city clerk who shall forthwith transmit the same to the registrars of voters, who shall within sixty days certify the signatures thereon in accordance with the provisions of law and return the petition to the city clerk.

The petition shall be filed with the city clerk at least one hundred and forty days before the date of the election at which the question proposed by the petition is to be submitted to a vote of the voters. (1915, 267, I, § 7; 1939, 451, § 8; 1948, 459, § 3; 1954, 67).

Sec. 8. Form of petition.

The petition shall be substantially in the following form: To the city council of the city of

We the undersigned, qualified voters of the city, respectfully petition your honorable body to cause to be submitted to a vote of the voters the following question:--"Shall the city of..... ..... adopt the form of government defined as Plan (A, B, C, D, E, or F, as it is desired by petitioners), and consisting of (describe plan briefly, as government by a mayor and nine councillors elected at large; or government by a mayor and councillors elected partly at large and partly from wards or districts; or government by five commissioners, one of whom shall be the mayor; or government by a city council, one member of which shall be the mayor, and having a city manager; or government by a city council to be elected at large by proportional representation, one member of which shall be the mayor, and having a city manager; or government by a mayor and councillors elected partly at large and partly from wards or districts with the mayor or councillors to be nominated in party primaries and elected in party elections, as the case may be), with elections to be held (in the case of Plan A, B, or C, annually, or biennially in every odd numbered year, as it is desired by the petitioners, or, in the case of Plan D, E, or F, biennially in every odd numbered year) (and in the case of Plan F) and the mayor and the members of the city council to receive for their services such salary, not exceeding (in the case of city having a population of less than fifty thousand $15,000 annually, or, in the case of a city having a population of fifty thousand or more, $20,000 annually) for the mayor and (in the case of a city having a population of less than fifty thousand, $2,000 annually, or, in the case of a city having a population of fifty thousand or more, $3,000 annually) for a member of the city council, as the city council may by ordinance determine, according to chapter forty-three of the General Laws relating to city charters ?"

The petition may be in the form of separate sheet, each sheet containing at the top thereof the heading above set forth, and when attached together and offered for filing the several papers shall be deemed to constitute one petition, and there shall be endorsed thereon the name and address of the person presenting the same for filing. (1915, 267, I, § 8; 1922, 237, § 2; 1938, 378, § 3; 1948, 459, § 4; 1959, 448, § 2, approved Aug. 10, 1959; effective 90 days thereafter.)

Sec. 9. Proceedings after filing; submission at city election.

In the case of a petition for the adoption of Plan A, B, C, D or E, within seventy days after the petition has been filed with him by the petitioners the city clerk shall, except as provided in section ten, transmit a certified copy thereof to the city council, except that the signatures upon the petition need not be copied but in place thereof the city clerk shall state the number of signatures of registered voters thereon, certified as such by the registrars of voters. If any question arises as to the validity or sufficiency of the petition or of the signatures thereon, any registered voter of the city may appeal for a determination of said question to the applicable

board referred to in section twelve of chapter fifty-three, by filing a notice of such appeal with the city council and with the clerk of the board of registrars of voters within eighty days after the date the petition was filed with the city clerk by the petitioners, and the board so appealed to shall within thirty days render a decision thereon. The board shall submit notice of its decision forthwith to the city council.

Any person aggrieved by the decision of the board under this section may appeal to the superior court sitting in equity, for the county in which the city is located; provided, that such appeal is filed in said court within ten days after such decision is rendered. It shall hear all pertinent evidence and determine the facts and, upon the facts as so determined, annul such decision if found to be erroneous in law or not warranted by the evidence, or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.

No costs shall be allowed against the board unless the court finds that it acted with gross negligence or in bad faith.

Within ten days after the expiration of said period of eighty days, if no appeal has been taken, or after receipt of a decision on any appeal in favor of the validity or sufficiency of such petition or signatures, as the case may be, the city council shall, unless the number of valid signatures certified to it is found to be less than the number required by section seven, transmit such certified copy to the city clerk. If said certified copy is so transmitted to the city clerk at least thirty days before the regular city election, the question proposed by the petition shall be submitted upon the official ballot to a vote of the registered voters of the city at said regular city election, otherwise it shall be submitted at the regular city election next following the aforesaid election. (1925, 188; 1941. 640, § 1; 1948, 459, § 5; 1954, 155; 1959, 448, § 3, approved August 10, 1959; effective 90 days thereafter; amended by 1961, 146, § 1, approved March 2, 1961, effective 90 days thereafter; 1962, 165, § 1, approved Feb. 28, 1962, effective 90 days thereafter.)

Sec. 9B. Proceedings after filing petition for adoption of Plan F; appeals; submission at biennial state elections or city elections.

In the case of a petition for the adoption of Plan F, within seventy days after such petition has been filed with him by the petitioners, the city clerk shall, except as provided in section ten, transmit a certified copy thereof to the city council, except that the signatures upon the petition need not be copied but in place thereof the city clerk shall state the number of signatures of registered voters thereon, certified as such by the registrars of voters or the election commission.

If any question arises as to the validity or sufficiency of the petition or of the signatures thereon, any registered voter of the city may appeal to the state ballot law commission for a determination of said question, by filing a notice of such appeal with the city council and with the clerk of the election commission or the board of registrars of voters within eighty days after the date the petition was filed with the city clerk by the petitioners, and the state ballot law commission shall

give such petitioner a hearing on said question and shall within thirty days render a decision thereon. Said commission shall submit notice of its decision forthwith to the city council.

Any person aggrieved by the decision of the state ballot law, commission may appeal to the superior court sitting in equity for the county in which the city is located; provided, that such appeal is filed in said court ten days after such decision is rendered. The court shall hear all pertinent evidence and determine the facts and, upon the facts as so determined, annul such decision if found to be erroneous in law or not warranted by the evidence, or make such other decree as justice and equity may require.

Within ten days after the expiration of said period of eighty days, if no appeal has been taken, or after receipt of a decision on any appeal in favor of the validity or sufficiency of such petition or signatures, as the case may be, the city council shall, unless the number of valid signatures certified to it is found to be less than the number required by section seven, transmit such certified copy to the city clerk. If the said certified copy is so transmitted to the city clerk at least thirty days before the regular city election in the odd year, the question proposed by the petitioner shall be submitted upon the official ballot to a vote of the registered voters of the city at said regular city election; otherwise, the city clerk shall forthwith transmit such certified copy to the state secretary who shall cause it to be placed upon the official ballot for use in said city at the state election in the even year, next following the aforesaid city election.

If the said certified copy is so transmitted to the city clerk and then transmitted by him to the state secretary at least sixty days before the regular state election in the even year, the question proposed by the petitioner shall be caused to be placed by the state secretary upon the official ballot for use in said city at the state election in the even year; otherwise, the city clerk shall cause it to be placed upon the official ballot for use in said city at the regular city election in the odd year, next following the aforesaid state election. (Added 1962, 165, § 2, approved Feb. 28, 1962, effective 90 days thereafter.)

Sec. 10. One plan only may be considered at an election.

The question of the adoption of not more than one plan may be submitted at an election. If, pending the determination of the question proposed by petition already filed, another petition presenting the question of the adoption of a different plan shall be presented for filing with the city clerk, no action shall be taken upon the later petition, except to file it, until after the submission to a vote of the question proposed by the earlier petition. Should the result of such vote be adverse thereto, proceedings shall then be had upon the later petition as though it had been filed upon the day when such vote on the earlier petition was cast.

If, pending the determination of the question proposed by a petition already filed under chapter fifty-four A, a petition presenting the question of the adoption of one of the plans provided for in this chapter shill be presented for filing with the city clerk, no action shall be taken upon the later petition, except to file it, until after the submission to a vote of the question proposed by the

petition under said chapter fifty-four A. Should the result of such vote be adverse thereto, proceedings shall then be had upon the later petition as though it had been filed upon the day when such vote on the petition under said chapter fifty-four A was cast. (1915, 267, I, § 10: 1938, 378, § 4.)

Sec. 11. Majority vote required; election of officers.

If a majority of the total number of votes cast at a regular city election for and against the adoption of one of the plans of government provided for in this chapter shall be in favor of its adoption, this chapter so far as applicable to the form of government under the plan adopted by the city, shall supersede the provisions of its charter and of the general and special laws relating thereto and inconsistent herewith, but not, however, until officers provided for under such plan shall have been duly elected and their terms of office shall have begun. The officers provided for under the plan so adopted shall be elected in accordance with the provisions of this chapter relating to such plan and in accordance with section fifteen, and their terms of office shall begin at ten o'clock in the forenoon of the first Monday of January following their election. (1915, 267, I, § 11; 141, 640, § 2.)

Sec. 12. Vote on other plans.

Should a majority of the votes cast be against the adoption of the plan proposed, no petition proposing the same plan shall be filed within four years thereafter; but a petition proposing the adoption of one of the other plans provided for in this chapter may be filed at any time thereafter, and, subject to section ten, proceedings thereon shall be had as though no prior petition under this chapter had been filed. (1959, 268, approved May 4, 1959; effective 90 days thereafter.)

Sec. 13. Four year period for plan adopted.

Should any plan provided for in this chapter be adopted, it shall continue in force for at least four years from the beginning of the terms of office of the officials elected thereunder; and no petition proposing a different plan shall be filed until after three years and six months from such adoption. (1915, 267, I, § 13.)

Sec. 14. Certain officials to carry out provisions, etc.

The mayor, the aldermen and the common council, the city council or other legislative body, and the city clerk in office when any plan set forth in this chapter has been adopted, or is proposed for adoption, shall comply with all requirements of this chapter relating to such proposed adoption and to the election of the officers specified in said plan, in order that all things

necessary for the nomination and election of the officers first to be elected under the provisions of this chapter and of the plan so adopted may be done. (1915, 267, I, § 14.)

Sec. 15. Dates of elections.

After the adoption by any city of any plan provided for by this chapter.

(a) If the plan adopted provides for annual elections, regular municipal elections under said plan shall take place in the year following its adoption, and thereafter, on the Tuesday next following the first Monday of December in each year; provided, that if said city accepts or has accepted section one hundred and three A of chapter fifty-four all regular municipal elections under such plan following such acceptance shall take place on the third Tuesday of December in each year.

(b) If the plan adopted provides for elections to be held biennially in every even-numbered year, the regular municipal election next succeeding the adoption of such plan shall take place on Tuesday following the first Monday of December in the even-numbered year next succeeding the year of its adoption, and regular municipal elections thereafter shall take place on Tuesday next following the first Monday of December in every even-numbered year; provided, that in any such city which accepts or has accepted said section one hundred and three A all regular municipal elections under said plan following such acceptance shall take place biennially on the third Tuesday of December in every even-numbered year; and

(c) If the plan adopted provides for elections to be held biennially in every odd-numbered year, the first regular municipal election following its adoption shall take place in the odd-numbered year next succeeding the year of its adoption on the day fixed for the holding of such elections under the laws in effect in such city immediately prior to such adoption, and regular municipal elections thereafter shall take place in every odd numbered year on the day fixed as aforesaid; provided, that in any city which adopts Plan E all regular municipal elections shall take place as provided in section one hundred and nine. In each city adopting any plan provided for by this chapter, the municipal year shall begin and end at ten o'clock in the morning of the first Monday of January in each year. (1915, 267, I, § 15; 1922, 237, § 3; 1933, 313, § 7; 1938, 378, § 5; 1941, 640, § 3.)

Sec. 16. No primaries or caucuses to be held.

No primary or caucus for municipal officers shall be held, except in a city under Plan F. Candidates for mayor, city council and school committee, and assessors, if elected by the people, shall, except in a city under Plan F, be nominated in accordance with section six of chapter fifty-three. (1959, 448, § 5, approved Aug. 10, 1959; effective 90 days thereafter.)

Sec. 16A. Conduct of city primary and election under Plan F.

The city primary and election under Plan F shall, except as otherwise provided in this chapter, be conducted under the provisions of the statutes of the commonwealth relating to party primaries and elections. The city primary shall be held on the sixth Tuesday preceding the regular city election. At said primary each political party shall place in nomination a candidate for mayor, six candidates for school committeemen, as many candidates for councillor-at-large as there are councillors-at-large to be elected, and a candidate for councillor from each ward of the city. There shall not be printed on the ballot at such city primary the name of any person as a candidate for nomination for the office of mayor, school committee, or city councillor, unless a certificate from the registrars of voters of the city wherein such person is a registered voter that he is enrolled as a member of the political party whose nomination he seeks is filed with the city clerk on or before the last day for filing nomination papers.

Nominations of candidates, other than party nominations for any offices to be filled at a city election may be made by nomination papers containing the name of the candidate, his residence with street and number, if any, the office for which he is nominated and the principle, if any, which he represents in not more than three words. If a candidate is nominated otherwise than by a political party, the name of a political party shall not be used in his political designation, nor shall the name of any organization which has been adjudicated subversive under section 18 of chapter 264, be used in his political designation.

Such nomination papers shall be signed in the aggregate by not less than such number of voters as will equal three per cent of the entire vote cast for governor at the preceding biennial state election in the electoral district or division for which the officers are to be elected, but in no event by less than fifty voters.

A nomination paper for city office shall be filed with the city clerk by a responsible person who shall sign his name and address. The written acceptance of the candidate shall be filed therewith.

Such independent nomination papers for city offices shall be filed not later than the last day fixed for the filing of party nomination papers for the city primaries. (1959, 448, § 6, approved Aug. 10, 1959; effective 90 days thereafter.)

Sec. 17. Certain officials to be sworn, time, etc.

On the first Monday in January following a regular municipal election, at ten o'clock in the forenoon, the mayor-elect if elected by the people, the councillors-elect, and the assessors-elect if elected by the people, shall meet and be sworn to the faithful discharge of their duties. The oath may be administered by the city clerk or by a justice of the peace, and a certificate thereof shall be entered in the journal of the city council. At any regular council meeting thereafter the oath may be administered in the presence of the city council to the mayor, or to any councillor absent

from the meeting on the first Monday in January; provided, that under Plan E, the oath may be so administered to the mayor and vice-chairman at the same meeting at which they are respectively elected. (1915, 267, I, § 17; 1916, 68, § 2; 1922, 237, § 4; 1938, 378, § 6.)

Sec. 17A. Salaries of mayor, city manager, etc.

The mayor or city manager and the members of the city council shall receive for their services such salary as the city council shall by ordinance determine, and they shall receive no other compensation from the city. No increase or reduction in the salaries of mayor or city councillors shall take effect during the year in which such increase or reduction is voted, and no change in such salaries shall be made between the election of a new council and the qualification of the new council. The provisions of this section shall not be applicable in a city under Plan F. (1952, 259, § 2; 1958, 72, § 2; 513, § 2; 1959, 448, § 7, approved Aug. 10, 1959; effective 90 days thereafter; 1963, 731, § 1, approved October 1, 1963.)

Sec. 17B. Compensation of mayor and council members of Plan F cities.

In a city under Plan F the mayor and the members of the city council shall receive for their services such salary as the city council shall by ordinance determine, and they shall receive no other compensation from the city. The compensation for the mayor shall not exceed fifteen thousand dollars annually in cities having a population of less than fifty thousand or twenty thousand dollars annually in cities having a population of fifty thousand or more. The compensation for city councillors shall not exceed two thousand dollars annually in cities having a population of less than fifty thousand, or three thousand dollars annually in cities having a population of fifty thousand or more. (1959, 448, § 8, approved August 10, 1959; effective 90 days thereafter.)

Sec. 18. Legislative powers, proceedings, city clerk, etc.

Except as otherwise provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

1. *Quorum, etc.*--Every member of the council may vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.

2. *Proceedings, etc.*--The city council shall, from time to time, establish rules for its proceedings. Regular and special meetings of the council shall be held at a time and place fixed by ordinance. Except as otherwise authorized by section twenty-three A of chapter thirty-three, all sessions of the council shall be open to the public and to the press, and every matter coming before the council for action shall be put to a vote, the result of which shall be duly recorded. A

full and accurate journal of the proceedings of the council shall be kept, and shall be open to the inspection of any registered voter of the city.

3. *City, Clerk, Election, etc.*--The council shall, by a majority vote, elect a city clerk to hold office for three years and until his successor is qualified. He shall have such powers and perform such duties as the council may prescribe, in addition to such duties as may be prescribed by law. He shall keep the records of the meetings of the council.

City Clerk to Hold Office Until Successor Is Qualified.--The person holding the office of the city clerk at the time when any of the plans set forth in this chapter have been adopted by such city shall continue to hold office for the term for which he was elected and until his successor is qualified.

4. *City Auditor*--The council in any city adopting Plan D or E, shall, by a majority vote, elect a city auditor to hold office for three years and until his successor is qualified. He shall keep and have charge of the accounts of the city and from time to time audit the books and accounts of all departments, commissions, boards and offices of the city, and shall have such other powers and perform such other duties as the council may prescribe, in addition to such duties as may be prescribed by law. (1915, 267, I, § 18; 1938, 378, § 7: 1949, 723, § 1; 1958, 626, § 5.)

Sec. 19. Information by mayor or city manager to city council, attendance at meetings, etc.

The city council at any time may request from the mayor, or, under Plan D or E, from the city manager, specific information on any municipal matter within its jurisdiction, and may request him to be present to answer written questions relating thereto at a meeting to be held not earlier than one week from the date of the receipt by the mayor, or, under Plan D or E, by the city manager, of said questions. The mayor, or, under Plan D or E, the city manager, shall personally, or through the head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obliged to answer questions relating to any other matter. The mayor, or, under Plan D or E, the city manager, may attend and address the city council in person or through the head of a department, or a member of a board, upon any subject. (1915, 267, I, § 19; 1938, 378, § 8; 1948, 459, § 6.)

Sec. 20. Ordinances, passage, etc.

No ordinance shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property.

No ordinance shall be regarded is an emergency measure unless the emergency is defined and detailed in a preamble thereto separately voted on and receiving the affirmative vote of two thirds of the members of the city council.

No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege shall be passed as an emergency measure, and except as provided in section seventy and seventy-one of chapter one hundred and sixty-four and in chapter one hundred and sixty-six, no such grant, renewal or extension shall be made otherwise than by ordinance. (1915, 267, I, § 20.)

Sec. 21. Amendments, etc.

No ordinance shall be amended or repealed except by an ordinance adopted in accordance with this chapter. (1915, 267, I, § 21.)

Sec. 22. Passage at one session.

Any ordinance, order or resolution may be passed through all its stages of legislation at one session, provided that no, member of the council objects thereto ; but if any member of the council objects, the measure shall be postponed for that meeting. (1915, 267, I, § 22.)

Sec. 23. Ordinances, etc., to be published.

Every proposed ordinance or loan order, except emergency measures as hereinbefore defined and revenue loan orders, shall be published once in full in at least one newspaper of the city, and in any additional manner that may be provided by ordinance, at least ten days before its final passage. After such final passage, it shall, in the same manner as before, again be published once, as amended and completed, except in the case of an emergency ordinance which may be passed as hereinbefore provided and which shall take effect on its passage, and shall be so published at the earliest practicable moment; provided, that if any ordinance or proposed ordinance, or codification of ordinances or proposed ordinances, shall exceed in length eight octavo pages of ordinary book print, then, in lieu of the advertising required by this section, the same may be published by the city council in a municipal bulletin or printed pamphlet, and if so published in full at least ten days before its final passage, and thereafter, as amended and completed, again published in such bulletin or pamphlet, said publications shall be deemed sufficient without the newspaper publication as herein required. (1915, 267, I, § 23; 1917, 162; 1935, 68, § 1.)

Sec. 24. Obligations, actions, legal acts, etc., to continue.

All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by or to the city before its adoption of a plan provided by this chapter, and all taxes, special assessments, lines, penalties, forfeitures incurred or imposed, due or owing to the city, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except

as herein otherwise provided, shall continue without abatement and remain unaffected by this chapter; and no legal act done by or in favor of the city shall be rendered invalid by its adoption of a plan provided by this chapter. (1915, 267, I, § 24.)

Sec. 25. Civil service laws not to apply to certain employees.

The civil service laws shall not apply to the appointment of the mayor's secretaries or of the stenographers, clerks, telephone operators and messengers connected with his office, and the mayor may remove such appointees without a hearing and without making a statement of the cause of their removal. (1915, 267, I, § 25.)

Sec. 26. Certain vacancies, how filled; acting mayor.

Except as otherwise provided in sections fifty A, fifty-nine A. eighty-six, one hundred and two and one hundred and twenty-one, if a vacancy occurs in the office of the mayor or city council before the last six months of the term of office, the city council shall order an election for a Mayor or a member of the council to serve for the unexpired term: and if such vacancy occurs in the office of mayor in the last six months of the term, the president of the city council shall succeed to said office for the unexpired term. If the mayor is absent or unable from any cause temporarily to perform his duties they shall be performed by the president of the city council. The person upon whom such duties shall devolve shall be called "acting mayor," and he shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.

Whenever, under Plan C, any councillor shall be temporarily unable for any, cause to perform the duties of his office, the council may appoint one of its members to exercise his powers and perform his duties during such disability. Should an appointive officer of the city be temporarily unable for any cause to perform his duties, the council or the mayor, leaving the power of original appointment may make a temporary appointment of some person to act until such official resumes his duties. (1915, 267, I § 26; 1937, 224, § 1, 1938, 378, § 9; 1959, 448, § 9.)

Sec. 27. Officials and employees prohibited from making or sharing in contracts; penalty.

No mayor or member of the city council or school committee and no officer or employee of the city shall directly or indirectly make a contract with the city or receive any commission, discount, bonus, gift, contribution, or reward from or any share in the profits of any person making or performing such contract, unless the mayor, such member, officer or employee, immediately upon learning of the existence of such contract, or that such contract is proposed, shall notify in writing the mayor, city council or school committee of the nature of his interest in such contract, and shall abstain from doing any official act on behalf of the city in reference thereto. In case of

such interest on the part of an officer whose duty it is to sign such contract on behalf of the city, the contract may be signed by any other officer of the city duly authorized thereto by the mayor, or if the mayor has such interest, by the city clerk; provided, that when a contractor with the city is a corporation or a voluntary stock association, the ownership of less than five per cent of the stock or shares actually issued shall not be considered as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the owner of such stock or shares is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract.

A violation of any provision of this section shall render the contract in respect to which such violation occurs voidable at the option of the city. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or both. (1915, 267, I, § 27.)

Sec. 28. Proposals to be asked for certain contracts.

No contract for construction work or for the purchase of equipment, supplies or materials, whether for repairs or original construction, the estimated cost of which amounts to two thousand dollars or more, except in cases of special emergency involving the health or safety of the people or their property, shall be awarded unless proposals for the same have been invited by advertisements in at least one newspaper published in the city once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of proposed work or supplies may be had and the time and place for opening the proposals in answer to said advertisements and shall reserve to the city the right to reject any or all of such proposals. All such proposals shall be opened in public. No bill or contract shall be split or divided for the purpose of evading any provisions of this chapter. (1915, 267, I § 28; 1928, 399, § 1: 1951, 25, § 1: 1967, 79, § 3, approved March 27, 1967, effective 90 days thereafter.)

Sec. 29. Mayor or city manager to approve certain contracts; surety bond, etc.

All contracts made by any department board or commission where the amount involved is two thousand dollars or more shall be in writing, and no such contract shall be deemed to have been made or executed until the approval of the mayor under Plan A, B, C or F. or of the city manager under Plan D or E, and also of the officer or the head of the department or of the chairman of the board, as the case may be, making the contract is affixed thereto. Any contract made as aforesaid may be required to be accompanied by a bond with sureties satisfactory; to the board or official having the matter in charge, or by a deposit of money, certified check or other security for the faithful performance thereof, and such bonds or other securities shall be deposited with the city treasurer until the contract has been carried out in all respect and no such contract shall be altered

except by a written agreement of the contractor, the sureties on his bond, if any and the officer department or board, as the case may be, making the contract, with the approval of the mayor under Plan A. B, C, D or F, or of the city manager under Plan E, affixed thereto. (1915, 267, 1 § 29: 1928, 300, § 2: 1938, 378, § 10; 1949, 723, § 2; 1951, 25, § 2; 1959, 448, § 10, approved Aug 10, 1959, effective 90 days thereafter; 1967, 79, § 4, approved March 27, 1967, effective 90 days thereafter.)

Sec. 30. Purchase or taking of land for municipal and other purposes.

At the request of any department, and with the approval of the mayor and city council under Plan A, B, C or F, or with the approval of the city manager and the city council under Plan D or F, the city council may, in the name of the city, purchase, or take by eminent domain, under chapter seventy-nine, any land within its limits for any municipal purpose, and, without the request of any department, but with like approval, the city council may, in the name of the city, purchase or take by eminent domain, under chapter seventy-nine, any land within its limits for the purpose of conveying the same, with or without consideration, to the commonwealth for the use of a regional community college. Whenever the price proposed to be paid for land for any municipal purpose is more than twenty-five per cent higher than its average assessed valuation during the previous three years the land shall not be purchased, but shall be taken as aforesaid. No land shall be taken or purchased until an appropriation by loan or otherwise for the general purpose for which land is needed has been made by the city council, by a two-thirds vote of all its members; nor shall a price be paid in excess of the appropriations, unless a larger sum is awarded by a court of competent jurisdiction. All proceedings in the taking of land shall be under the advice of the land department, and a record thereof shall be, kept by said department. (1915, 267, I, § 30; 1938, 378, § 11; 194, 4598, § 7; 1959, 448, § 11, approved Aug. 10, 1959, effective 90 days thereafter; 1967, 59, § 2, approved with emergency preamble, March 21, 1967.

Sec. 31. School committee, number, term, etc.

The school committee shall consist of the mayor, who shall be the chairman and six members elected at large. At the first regular municipal election held in any city after its adoption of one of the plan as provided in this chapter, there shall be elected, except as provided in this section, two members to serve for one year, two for two years and two for three years, and annually thereafter there shall be elected two members to serve for three years. If the plan adopted provides for elections to be held biennially, there shall, except under Plan E, or F, be elected at the first regular municipal election held under the provisions of such plan, three members to serve for two years and three members to serve for four years, and biennially thereafter three members to serve for four years. After the adoption of Plan E, by a city, the six members other than the mayor shall be elected at large for terms of two years each by proportional representation as hereinafter provided. (1915, 267, I, § 31 ; 1922, 237, § 5; 1938, 378, § 12; 1959, 448, § 12, approved August

10, 1959, effective 90 days thereafter.)

Sec. 32. To appoint superintendent, etc.; members not to hold other offices.

The school committee shall elect a superintendent of schools annually except as provided in section forty-one of chapter seventy-one, and may, under chapter thirty-one, appoint, suspend or remove, at pleasure such subordinate officers or assistants, including janitors of school buildings, as it may deem necessary for the proper discharge of its duties and the conduct of its business; it shall define their terms of service and their duties, and shall fix their compensation. No member of the school committee, except the mayor, shall, while a member thereof, hold any other office or position the salary or compensation for which is payable out of the city treasury. The committee shall organize annually on the first Monday in January, and shall elect one of its members as vice-chairman, who shall preside at all meetings of the committee at which the mayor is not present. (1915, 267, I, § 32; 1918, 257, § 157: 1919, 5; 1920, 2; 1949, 318.)

Sec. 33. Powers and duties.

Except as otherwise provided in this chapter and subject to any laws which limit the amount of money that may be appropriated in any city for school purposes, the school committee, in addition to the powers and duties conferred and imposed by law on school committees, may provide, when necessary, temporary accommodations for school purposes, may make all repairs, the expenditures for which are made from the regular appropriation for the school department, shall have control of all school buildings and grounds connected therewith and shall make all reasonable rules and regulations, consistent with law, for the management of the public schools of the city and for conducting the business of the committee. (1915, 267, I, §§ 33,35.)

Sec. 34. Sites, plans, etc., for school buildings.

No site for a school building shall be acquired by the city unless the approval of the site by the school committee is first obtained. No plans for the construction of or alterations in a school building shall be accepted, and no work shall be begun on the construction or alteration of a school building, unless the approval of the school committee and the mayor is first obtained. This section shall nor require such approval for the making of ordinary repairs. (1915, 267, I, § 34.)

Sec. 35. Meetings to be public; yea and nay vote.

All meetings of the school committee shall be open to the press and to the public, except as otherwise authorized by section twenty-three A of chapter thirty-nine. The vote on any particular measure shall be by yeas and nays, when requested by two members. (1915, 267, I, § 36; 1958,

626, § 6.)

Sec. 36. May fill vacancy in their own body.

Except as provided in this section, if a vacancy occurs in the school committee by failure to elect, or otherwise, the city council and the remaining members of the school committee shall meet in joint convention and elect a suitable person to fill the vacancy until the first Monday in January following the next regular municipal election; and, if there would be a vacancy on said first Monday, it shall be filled at such regular municipal election for the balance of the unexpired term. The mayor, if present, shall preside at the convention.

Whenever under Plan E a vacancy occurs in the school committee by failure to elect, or otherwise, such vacancy shall be filled as provided in section one hundred and two. (1915, 267, I, § 37: 1922, 237, § 6; 1938, 378, § 13.)

Sec. 37. Initiative petition.

A petition conforming to the requirements hereinafter provided and requesting the city council to pass a measure, except, an order granting under section seventy or seventy-one of chapter one hundred sixty-four or chapter one hundred and sixty-six, or requesting the school committee to pass a measure, therein set forth or designated, shall be termed an initiative petition, and shall be acted upon as hereinafter provided. In this and the eight following sections, "measure" shall mean an ordinance, resolution, order or vote passed by a city council, or a resolution, order or vote passed by a school committee, as the case may be. (1915, 267, I, § 38.)

Sec. 38. Signatures to initiative petitions; certification; transmission; objections.

Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the city clerk as one instrument, with the endorsement thereon of the names and addresses of three persons designated as filing the same. With each signature to the petition shall be stated the place of residence of the signer, giving the street and number if any.

Within five days after the filing of said petition the registrars of voters shall ascertain by what number of registered voters the petition is signed, and what percentage that number is of the total number of registered voters, and shall attach thereto their certificate showing the result of such examination.

The city clerk shall forthwith transmit the said certificate with the said petition to the city council or to the school committee, according as the petition is addressed, and at the same time shall send a copy of said certificate to one or more of the persons designated on the petition as

filing the same.

When such certificate has been so transmitted, said petition shall be deemed to be valid unless written objections are made thereto by a registered voter of the city within forty-eight hours after such certification by filing such objections with the city council or the school committee, and a copy thereof with the registrars of voters or the board or commission having similar duties. A copy of the objections so filed shall forthwith be transmitted to the state ballot law commission which shall hold a public hearing on said objections, shall render a decision on the matter referred to it within fourteen days after the objections were filed and transmit a copy of its decision to the city council or the school committee. (1915, 267, I, § 39; 1967, 406, § 1, approved June 27, 1967, effective 90 days thereafter.)

Sec. 39. Action by city council or school committee if initiative petition is fully signed; referendum.

If any initiative petition is signed by registered voters equal in number to at least twenty per cent of the whole number of registered voters, the city council or the school committee shall, within twenty days after the date of the certificate of the registrars as that effect:

1. Pass said measure without alteration, subject to the referendum vote provided by this chapter, or

2. The city council shall call a special election to be held on Tuesday fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the registered voters of the city at that election; provided, that if any city election is otherwise to occur within ninety days after the date of said certificate, the city council may, at its discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election. (1915, 267, I, § 40.)

Sec. 40, Proceedings if petition not fully signed.

If an initiative petition is signed by registered voters equal in number to at least eight per cent but less than twenty per cent of the total number of registered voters, and said measure be not passed without alteration within twenty days by the city council or the school committee, is provided in the preceding section, such proposed measure, without alteration, shall be submitted by the city council in a vote of the registered voters of the city at the next regular municipal election. A measure proposed under this section or section thirty-nine shall become effective if it shall be approved by registered voters of the city equal in number to one third of the whole number thereof and also by a majority of the voters voting on such measure, but not otherwise. (1915, 267, I, § 41; 1922, 237, § 7; 1931, 426, § 158.)

Sec. 41. Ballots to state nature of measure.

The ballots used when voting upon a proposed measure under section thirty-nine or forty, or a measure or part thereof protested against under the following section, shall state the nature of the measure in terms sufficient to show the substance thereof. (1915, 267, I, § 46; 1931, 426, § 159.)

Sec. 42. Referendum petition.

If, within twenty-days after the final passage of any measure, except a revenue loan order, by the city council or by the school committee, a petition signed by registered voters of the city, equal in number to at least twelve per cent of the total number of registered voters, and addressed to the city council or to the School committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the city clerk, the same shall thereupon and thereby be suspended from taking effect: and the city council or the school committee, as the case may be, shall immediately reconsider, such measure or part thereof: and if such not entirely rescinded, the city council shall submit the same, by the method herein provided, to a vote of the registered voters of the city, either at the next regular city election, or at a special election which may, in its discretion, be called for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the registered voters voting on the same at such election vote in favor thereof.

Procedure, etc. -- The petition described in this section shall be termed a referendum petition and section thirty-eight, with the exception of the last paragraph, shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section wherever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section. (1913, 267, I, § 42; 1935, 68, § 2: amended by 1961, 550 approved May 27, 1961, effective 90 days thereafter; amended by 1967, 406. § 2, approved June 27, 1967, effective 90 days thereafter.)

Sec. 43. City council may submit questions to voters.

The city council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the registered voters of the city for adoption or rejection at a general or special city election any proposed measure, or a proposition for the repeal or amendment for any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition. (1913, 267, I, § 44.)

Sec. 44. Measures with conflicting provisions.

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect. (1915, 267, 1, § 45.)

Sec. 44A. Preliminary elections; nominations.

In every city, governed on September first, nineteen hundred and twenty-two, by any plan provided by this chapter, which accepts sections forty-four A to forty-four G, inclusive, in the manner provided by section forty-four H, and in every city, except Boston, which, after said date adopts any such plan, except Plan E or F, in the manner provided in this chapter, the provisions of section forty-four A to forty-four G, inclusive, shall apply. In such a city which accepts section one hundred and three A of chapter fifty-four, on the fourth Tuesday, and in any other such city, on the third Tuesday, preceding every regular city election, and, in all such cities, on the third Tuesday preceding any special election, at which any office mentioned in this chapter is to be filled, there shall be held, except as otherwise provided in section forty-four G, a preliminary election for the purpose of nominating candidates therefor, and section sixteen, shall not apply.

Notices or warrants for regular, preliminary and special elections shall specify by name all the offices to be voted for and state, in the form in which it will appear upon the ballot, any question submitted to the voters. They shall specify the time when the polls will be opened and when the polls will be closed. The polls at such elections shall be open during such hours as the city council may prescribe; provided, that they shall be opened not earlier than fifteen minutes before six o'clock in the forenoon nor later than ten o'clock in the forenoon and shall be kept open at least six hours, but in no event later than eight o'clock in the evening. The ballots to be used at such elections shall be governed by the provisions of section forty-nine. (1922, 282, § 1 ; 1933, 313, § 8; 1934, 30; 1938, 378, § 14; 1941, 640, § 4; 1959, 448, § 13, approved. Aug. 10, 1959: effective 90 days thereafter.)

Sec. 44B. Prerequisites for inclusion of name on official ballot.

Except as otherwise provided in section forty-four G, there shall not be printed on the official ballot to be used at any regular or special election the name of any person as a candidate for any office unless such person has been nominated as such at a preliminary election for nomination, held as provided in sections forty-four A. to forty-four G, inclusive. There shall not be printed on the official ballot for use it such preliminary election the name of any candidate for nomination at such election, unless he shall have filed, within the time limited by section forty-four C, the statement and petition therein described. (1922, 282, § 1.)

Sec. 44C. Candidates for nomination, persons eligible; statement and petition.

Any person who is qualified to vote for a candidate for any elective municipal office and who is a candidate for nomination thereto, shall be entitled to have his name as such candidate printed on the official ballot to be used at a preliminary election; provided, that within the time prescribed by section ten of chapter fifty-three in the case of preliminary elections in cities he shall file with the city clerk a statement in writing of his candidacy, and with it the petition of at least fifty voters, qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:--

STATEMENT OF CANDIDATE

Form of statement -- I ( ), on oath declare that I reside at (number if any) on (name of street) in the city of ; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for the office of (name of office) for (state the term) to be voted for at the preliminary election to be held on Tuesday, the day of , nineteen hundred and and I request that my name be printed as such candidate on the official ballot for me at said preliminary election.

(Signed)

Commonwealth of Massachusetts,
Subscribed and sworn to on this ss.
day of , nineteen hundred and
before me,
(signed)

Justice of the Peace
or (Notary Public.)

PETITION ACCOMPANYING STATEMENT OF CANDIDATE

Form of petition -- Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we, the undersigned, voters of the city of , duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballot to be used at the preliminary election to be held on the Tuesday of nineteen hundred and .

We further state that we believe him to be of good moral character and qualified to perform the duties of the office.

No acceptance by the candidate for nomination named in the said petition shall be necessary to its validity or its filing, and the petition, which may be on one or more papers, need not be sworn to. (1922, 282, § I ; 1937, 147; 1943, 229, § 1.)

Sec. 44D. List of candidates; official ballots.

On the first day, other than Sunday or a legal holiday, following the expiration of the time for filing the above described statement and petition, the city clerk shall post in a conspicuous place in the city hall the names and residences of the candidates for nomination who have duly qualified as candidates for nomination, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, and shall cause the ballots which shall contain said names, in their order as drawn by the clerk, and no others, with a designation of residence, and of the office and term of service, to be printed, and the ballots so printed shall be official and no others shall be used at the preliminary election. In drawing for position on the ballot the candidates shall have an opportunity to be present in person or by one representative each. Blank spaces shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefor, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on such ballots such directions as will aid the voter, as, for example: "vote for one", "vote for two", and the like, and the ballots shall be headed as follows:--

OFFICIAL PRELIMINARY BALLOT

Candidates for nomination for the offices of ( ) in the city of at a preliminary election to be held on the day of in the year of nineteen hundred and .

(The heading shall be varied in accordance with the offices for which nominations are to be made.) (1922, 282, § 1.)

Sec. 44 E. Counting, etc, of votes; duties of election officers and clerk.

The election officers shall, immediately upon the closing of the polls at preliminary election, count the ballots and ascertain the number of votes cast in the several voting places for each candidate, and forthwith make return thereof upon blanks to be furnished, as in regular elections, to the city clerk who shall canvas said returns and shall forthwith determine the result thereof, insert the same in one or more newspapers published in the city, and post the same in a conspicuous place in the city hall. (1922, 282, § 2.)

Sec. 44F. Candidates for election, how determined.

The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall, except as provided by section forty-four G, be the sole candidates for that office whose names may be printed on the official ballot to be used at the regular or special election at which such office is to be filled, and no acceptance of a nomination at a preliminary

election shall be necessary to its validity.

If two or more persons are to be elected to the same office at such regular or special election the several persons in number equal to twice the number so to be elected receiving at such preliminary election the highest number of votes for nomination for that office shall, except as provided by, section forty-four C, be the sole candidates for that office whose names may be printed on the official ballot.

If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes, which, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon candidates to a number exceeding twice the number to be elected. (1922, 282, § 1.)

Sec. 44G. Candidates for nomination, when deemed nominated; preliminary election, when unnecessary.

If at the expiration of the time for filing statements of candidates to be voted for at any preliminary election not more than twice as many such statements have been filed with the city clerk for an office as are to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have been nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, as the case may be, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards. (1922, 282, § 1.)

Sec. 44H. Acceptance of section 44A to 44G, submission to voters, when.

If, in a city governed on September first, nineteen hundred and twenty-two, by one of the plans provided by this chapter, there is filed with the city clerk, not later than one month before a regular city election, a petition conforming so far as possible to the provisions of sections eight and nine, requesting that such city accept the provisions of section forty-four A to forty-four G, inclusive, and bearing the signatures of registered voters thereof, duly certified by the registered voters thereof at a biennial state election next preceding such filing, the following question shall be placed upon the official ballot to be used in such city at the next regular city election: -- "Shall sections forty-four A to forty-four G, inclusive, of chapter forty-three of the General Laws, relative to the nomination by preliminary election of candidates for elective municipal offices in cities governed under a standard form of city charter, be accepted by the city of ?" If a majority of the voters voting thereon in such city vote in the affirmative,

said sections shall take effect therein. (1922, 282, § 1; 1932, 180, § 7, 1941, 640, § 5.)

Sec. 45. Certain provisions to apply to any plan adopted.

Section one to forty-four G, inclusive, shall upon the adoption by any city of any of the plans hereinafter set forth, apply to the plan so adopted, except as is otherwise provided in such plan. (1915, 267, I, § 47; 1922, 282, § 2.)

PLAN A--GOVERNMENT BY MAYOR AND CITY COUNCIL ELECTED AT LARGE

Sec. 46. Plan A.

The method of city government provided for in the ten following section shall be known as Plan A. (1915, 267, II, § 1; 1939. 451, § 9.)

Sec. 47. When plan takes effect.

Upon the adoption of Plan A, it shall become operative as provided in sections one to forty-five, inclusive. (1915, 267, II, § 2.)

Sec. 48. Mayor, election, term, etc.

There shall be a mayor, elected by and from the qualified voters of the city, who shall be the chief executive officer of the city. He shall hold office for the term of two years from the first Monday of January following his election, and until his successor is qualified. (1915. 267, II, § 3.)

Sec. 49. Party or political designations abolished.

No ballot used at any annual, biennial or special city election shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party or political designation or mark, or anything showing how he was nominated or indicating his views or opinions. (1915, 267, II. § 4; 1931, 394, § 213.)

Sec. 50. City council, number, election, etc.

The legislative powers of the city shall be vested in a city council, consisting of nine persons, elected at large by and from the qualified voters of the city. One of its members shall be elected by the council annually as its president. At the first election held in a city after its adoption of

Plan A, except as otherwise provided in this section, the five candidates receiving the largest number of votes shall hold office for two years, and the four receiving the next largest number of votes shall hold office for one year. Thereafter, as these terms expire, there shall be elected at each annual city election a sufficient number of members to fill the vacancies created by the expiration of said terms, each member so elected to serve for two years.

If the plan adopted provides for elections to be held biennially, at the first regular municipal election held under the provisions of such plan and at each biennial election thereafter, there shall be elected nine members of the city council to serve for two years from the first day of January following their election and until their successors are qualified. (1915, 267, II, § 5: 1922, 237, § 8.)

Sec. 50A. Filling of vacancies in city council.

Vacancies in the city council shall be filled by the remaining members thereof for the remainder of the unexpired term. (1936, 135.)

Sec. 51. Repealed 1952, 257, § 3.[EN(1)]

Sec. 52. Mayor may make appointments without confirmation.

Upon the adoption of Plan A, all heads of departments and members or municipal boards, except the school committee, officials appointed by the governor and assessors if elected by vote of the people, as their terms of office expire, shall be appointed by the mayor with out confirmation by the city council. (1915, 267, II § 7.)

Sec. 53 Certificates of appointment.

In making his appointments the mayor shall sign and file with the city clerk a certificate in the following form:

CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office) and I certify that in my opinion he is a recognized expert in the work which will devolve upon him, and that I make the appointment solely in the interest of the city.

Mayor.

or in the following form, as the case may be:

CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion he is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Mayor.

(1915, 267, II, §8)

Sec. 54. Removals: certain officers exempted.

The mayor may remove the head of a department or member of a board by filing a written statement with the city clerk setting forth in detail the specific reasons therefore a copy of which shall be delivered or mailed to the person thus removed, who may make a written reply, which, if he desires, may be filed with the city clerk; but such reply shall not affect the action taken unless the mayor so determines. This section shall not apply to the school committee, or to officials appointed by the governor, or to assessors if elected by the people. (1915, 267, II, § 9.)

Sec. 55. Approval and veto by mayor of orders, etc.

Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for his approval. If he approves it he shall sign it; if he disapproves it he shall return it, with his written objections to the city council, which shall enter the objections at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two thirds vote of all its members, it shall then be in force, but such vote shall not by taken for seven days after its return to the city council. Every such order, ordinance, resolution and vote shall be in force if not returned by the mayor within ten days after it has been presented to him. This section shall not apply to budgets submitted under section thirty-two of chapter forty-four or to appropriations by a city council under section thirty-three of said chapter. (1915, 267, II, § 10.)

CHAPTER 2. SPECIAL ACTS AND ACCEPTANCES OF GENERAL LAWS.

A. Special Acts and Resolves.

Acts of	Chapter	Subject	Date Accepted
1895	148	An Act to incorporate the City of North Adams.	4-8-1895
1896	197	An Act to authorize the City of North Adams to issue bonds, notes or scrip for the purpose of acquiring land and of erecting public buildings thereon.	5-4-1896
1896	201	An Act to authorize the City of North Adams to issue bonds for the purpose of completing its reservoir and for supplying the inhabitants of the City with pure water.	5-4-1896
1897	75	An Act to authorize the City of North Adams to grade and pave its streets and to issue bonds or notes therefor.	3-1-1897
1897	76	An Act to abolish the Board of Public Works of the City of North Adams, and for other purposes.	Petition
1897	123	An Act to authorize the City of North Adams to issue bonds or notes for the purpose of acquiring land, erecting public school buildings thereon, constructing sewers and refunding its notes.	3-1-1897
1898	Resolve 98	Resolve to provide for the purchase of land for the state normal school at North Adams.	
1899	Resolve 79	Resolve relative to the purchase of additional land for the use of the state normal school at North Adams.	
1899	106	An Act to authorize the City of North Adams to refund its present indebtedness.	Petition
1900	110	An Act to authorize the City of North Adams to incur indebtedness for the construction and maintenance of sewers.	Petition
1900	262	An Act to change and establish the boundary line between the City of North Adams and the Town of Williamstown.	10-3-1900
1900	402	An Act to authorize the City of North Adams to take land for a public park.	Petition
1903	317	An Act to authorize the City of North Adams to borrow money outside the debt limit, for the improvement of streets.	Petition
1904	254	An Act relative to the Fire Department of the City of North Adams.	Petition
1907	398	An Act to authorize the City of North Adams to make an additional water loan.	Petition

1908	80	An Act relative to the issuing of evidence of indebtedness for water supply purposes by the City of North Adams. (Amending Chapter 398 of the Acts of 1907.)	Petition
1909	241	An Act relative to the tenure of office of the chief of the Fire Department of the City of North Adams.	Petition
1909	305	An Act to authorize the City of North Adams to refund a part of its indebtedness.	Petition
1912	606	An Act to provide for sittings of the Superior Court of the County of Berkshire, at North Adams for purposes of naturalization.	5-17-1912
1913	160	An Act to authorize the City of North Adams to make an additional water loan.	Petition
1913	382	An Act to authorize the City of North Adams to take land, water rights and water courses for water supply purposes.	Petition
1913	723	An Act relative to wires and electrical appliances in the City of North Adams.	Petition
1914	109	An Act relative to the authority of the City of North Adams to take land, water rights and water courses for water supply purposes.	2-25-1914

Acts of	**Chapter**	**Subject**	**Date Accepted**
1914	203	An Act relative to the construction of a highway between the City of North Adams and the valley of Deerfield River.	3-19-1914
1915	S 186	An Act to authorize the City of North Adams to erect a high school building and to borrow money therefor.	Petition
1916	S 141	An Act relative to water rates, and income in the City of North Adams.	Petition
1918	G.L. C.73, § 3.	An Act to make certain substantive corrections in existing laws. § 170--amending R. L., C. 39, § 11 and providing for practice schools for normal training to be furnished by City of North Adams.	9-18-1918
1918	S 103	An Act to amend the Charter of the City of North Adams.	11-5-1918
1929	149	An Act subjecting the once of the Chief Engineer of the Fire Department of the City of North Adams to the civil service laws.	12-10-1929
1929	247	An Act authorizing the City of North Adams to purchase certain lands in the	5-7-1929

		Town of Clarksburg for rifle range purposes.	
1931	10	An Act authorizing the City of North Adams to pay a certain claim legally unenforceable by reason of failure to comply with certain provisions of its Charter.	2-11-1931
1937	306	An Act validating an ordinance of the City of North Adams fixing a tax limit in said City.	Petition
1941	220	An Act transferring the care, superintendence and management of burial places in the City of North Adams to the Commissioner of Public Works of said City.	Petition
1941	526	An Act authorizing the City of North Adams to make and enforce ordinances providing for the control or prevention of smoke and cinders.	Petition
1945	178	An Act relative to the use of certain election districts in the City of North Adams.	Petition
1946	478	An Act requiring the City of North Adams to repay certain permanent members of its Fire Department the contributions made by them to the contributory retirement system of said city, and establishing the retirement rights of such members.	Petition
1947	327	An Act revising the Charter of the City of North Adams.	12-9-1947
1949	402	An Act revising the Charter of the City of North Adams.	11-8-1949
1954	586	An Act requiring the City of North Adams to repay to certain members of its Police Department their contributions to the contributory retirement system of said City, and establishing their retirement rights.	Paper #4583-1
1966	328	An Act authorizing the City of North Adams to sell, lease or grant an easement in certain cemetery land in said City.	6-14-1966
1978	130	An Act establishing the date for holding preliminary elections in the City of North Adams.	5-5-1978
1979	201	An Act authorizing the City of North Adams to submit to the State Secretary the plan redividing the wards in said City.	5-22-1979
1989	196	An Act exempting certain positions in the School Department of the City of North Adams from the provisions of the	7-5-1989

civil service law.

B. Acceptances of Legislative Acts.

Acts of	Chapter	Subject	Date Accepted
1890	74	An Act in relation to the preservation of public health in cities.	4-6-1896
1893	312	An Act relating to the repair of private drains in streets or ways.	4-6-1896
1894	455	An Act relative to the licensing of plumbers and the supervision of the business of plumbing.	4-6-1896
1894 (§§ 11, 14 to 22)	481	An Act in relation to the inspection Department of the district police and the inspection of buildings.	4-5-1897
1896	314	An Act to provide for the appointment of a reserve police force in cities.	1-7-1899
1898	208	An Act to provide for the appointment of constables in cities.	4-12-1898
1899	344	An Act to make eight hours a day's work for City and town employees.	12-19-1899
1901	332	An Act relative to the terms of office of City clerks.	12-17-1901
1903	454	An Act to provide for joint caucuses or primaries of all political and municipal parties. (Action revoked in 1904; see Chapter 398 of the Acts of 1904.)	11-3-1903
1905	373	An Act relative to the terms of office of municipal auditors.	12-19-1905
1911	436	An Act relative to the appointment of deputy election officers in certain cities.	6-5-1912
1911	468	An Act to extend the provisions of the Civil Service Act to chiefs of police of certain cities and towns.	11-7-1911
1912	546	An Act relative to vacations of members of Fire Departments.	12-17-1912
1913	487	An Act relative to the promotion of call men in the Fire Departments of cities and towns.	12-16-1913
1913	807	An Act to provide for compensating certain public employees for injuries sustained in the course of their employment.	12-16-1913
1914	217	An Act relative to vacations of laborers employed by cities and towns.	11-3-1914
1914	688	An Act to make Saturday a half-holiday for laborers, workmen and mechanics employed by or on behalf of the commonwealth and otherwise to regulate	11-3-1914

		their employment.	
1916	185	An Act to authorize cities to maintain schools of agriculture and horticulture.	11-7-1916
1919	311	An Act relative to the establishment and maintenance of continuation schools and courses of instruction for employed minors.	11-4-1919
1920	166	An Act to provide for one day off in every eight days for certain police officers.	11-2-1920
1920	240	An Act to permit, under public regulation and control, certain sports and games on the Lord's Day.	12-14-1920
1920	619	An Act to establish a state boxing commission to serve in the Department of Public Safety.	12-14-1920
1933	99	An Act providing for advance payments on account of taxes for the years 1933 and 1934 in certain cities and towns.	6-7-1933
1933	318 (G. L., c. 12, § 3B; c. 35, § 28; c. 40, § 5; c. 41, § 100A, c. 111, § 83 A, c. 152, § 69.)	An Act relative to the indemnification of certain public employees for damages sustained through operation of certain publicly owned vehicles, and subjecting employees of certain county and district hospitals to certain provisions of the Workmen's Compensation Laws.	1-15-1936
1945	447	An Act relative to granting vacations to employees who return to the service of certain counties, cities or towns after serving in the armed forces for the United States during the present war.	12-3-1946
1945	723	An Act authorizing the establishment and maintenance of municipal departments and of districts for furnishing information, advice and assistance to veterans of World War II or other veterans.	12-4-1945
1949	588	An Act authorizing increases of pensions payable to certain former public employees who have been retired and to beneficiaries of certain retired public employees.	Paper #3851
1962	646	Increase of certain public employees' accident disability payments	12-11-1962
1964	87	Borrowing funds for recreational purposes.	3-24-1964
1967	286	An Act regulating the compensatory time off or pay for certain police officers who attend as witnesses in certain	5-28-1968

		criminal cases.	
1977	424	Changing the name of the North Adams Industrial Development Commission and increasing membership of said commission.	9-13-1977
1980	326	Acquisition, construction, financing and disposition of projects by the Northern Berkshire Industrial Development Commission.	1-27-1981
1980	416	Assessors.	10-14-1980
1981	339	Authorizes cities and towns to allocate certain anticipated receipts.	9-8-1981
1981	743 (G.L., c. 59, § 5.)	Real estate tax exemptions.	5-11-1982
1982	653 (G.L., c. 59, § 5.)	Real estate tax exemptions for the elderly.	5-8-1984
1985	308 (G.L., c. 140, § 147A.)	Dog licensing, control and regulation.	1-21-1987
1987	697, § 64	Public employees receiving retirement credit for time in Armed Forces	5-11-1993
1986	705	Increased life insurance for retired municipal employees.	1-23-1989
1988	135	Establishment of the Northern Berkshire Solid Waste District.	9-23-1988
1989	653, § 40	Assessment of property improvements on July 1	6-22-1993
1990	254	Service after age 70.	11-12-1991
1990	291	Enhanced 911 service.	3-26-1991
1996	71	Public employees receiving retirement credit for time in Armed Forces	8-27-1996
1998	194, § 288	Option (c) Pop-Up provision	12-22-1998
1999	127, § 51	Adds § 103(i) to MGL c. 32, allowing the North Adams Contributory Retirement Board to annually grant a COLA in excess of the amount allowed by the existing COLA provision in MGL c. 32, § 103(c), up to a maximum of 3%	2-22-2000
2002	116	Grant of 180 days to veterans to opt to purchase military service credit pursuant to MGL c. 32, § 4(1)(h)	7-23-2002
R.L., c. 50, §§ 1 to 9, 15 to 17, 23 to 26.		Of betterments and other assessments on account of the cost of public improvements.	3-19-1903
R.L., c. 108, §§ 29, 30.		An Act relative to granting police pensions in cities.	6-6-1916

C. Acceptance of General Laws.

MGL

Chap-ter	Section	Subject	Date Accepted
8,	17	Rooms in state houses for departments of war veterans.	(no date)
31		Civil service.	11-5-1940
32,	1 note	Increase of pensions payable to certain retired former public employees.	12-3-1946
32,	1 note	Increase of pensions payable to certain retired former employees and to bene-ficiaries of certain retired public employees.	12-10-1947
32	5 note	Increase in annual amounts of certain pensions, retirement allowances, annuities and other benefits payable by commonwealth and its political subdi-visions to certain former employees and persons claiming under them.	Paper # 4148
32	5 note	Increase of certain public employees' retirement allowances.	Paper # 5813
32	20, Subsection 4(c)	Method of selection for Retirement Board	1-24-1984
32	22D	Retirement system funding	5-11-1993
32,	25	Guarantees of public employees' retire-ment allowances; effect of amendments or repeals on allowances.	Paper # 4147
32,	26 to 31H	Contributory retirement systems.	11-3-1936
32	44, 45	Municipal pensions for school janitors.	2-7-1929
32	45A	Amount of pension for school janitors.	Paper # 5097
32	56-60	Retirement of veterans of Spanish and World Wars.	3-3-1914
32	65A	Retirement pensions for judicial officers.	Paper # 4837
32	80, 81, 85A	Pensioning firemen.	12-18-1924
32	81A, 81B, 83A	Retirement and pensions for police and firemen.	12-3-1946
32	85A note	Increase of pensions for police officers and firefighters.	Paper # 5175
32	85J	Pensions for widows of firefighters and police.	1-8-1957
32	99	Advance payments to City pensioners.	Paper # 5576
32B		Contributory group insurance for persons in service of cities and their dependents.	Paper # 4832
32B	7A	Employee benefits.	7-9-1974
32B	8A	Use of dividends or refunds to reduce employees or retired employees' share of premium costs.	6-13-1978
32B	9A	Contributions by cities to insurance premiums of retired employees.	8-27-1963
32B	9D	Employee health insurance.	11-13-1973

32B	9E	Retiree health insurance premiums	6-22-2010
32B	9F	Employee benefits.	7-24-1973
32B	11A	Additional insurance for City employees.	(no date)
32B	11D	Payment by the city; portion of accidental insurance, police and firefighters.	3-25-1969
32B	11E	Employee benefits.	4-26-1972
32B	18	Transfer of eligible retirees, spouses and dependents to Medicare extension plan	6-22-2010
33	59	Effect of military service on salary or vacation allowance of public employees.	7-2-1930
34B	20	Allowing a City or Town to enter into an agreement to join a regional charter commission	1-11-2000
39	6	Elections to fill vacancies in city offices.	Paper # 5678
40	6A	Appropriations for advertising resources, advantages and attractions.	7-1-1941
40	6B	Appropriations for purchase of uniforms for police and firemen.	8-5-1947
40	6F	Making repairs on private ways by cities.	Paper # 5264-1
40	6J	Purchase rain wear and other work clothes for employees.	12-12-1967
40	6K	Payment of nurses' uniforms, health department.	10-11-1965
40	8C	Conservation Commission.	6-26-1962
40	8D	Historical Commission.	7-10-1979
40	8G	Mutual aid programs for police departments.	1-13-1981
40	21C	Leave of absence; while attending union convention.	5-26-1970
40	22D	[Administration.]	11-25-1975
40	42A to 42F	Collection of water rates.	3-10-1930
40A	8	Reconsideration of proposed change in zoning regulation after unfavorable action.	(no date)
40A	20	Reconsideration of zoning receiving unfavorable decision from board of appeals.	Paper # 5404
40	57	Revocation or suspension of licenses.	5-22-1990
41	100G	[Police and firemen.]	9-26-1978
41	19F	Additional compensation for serving as Clerk of City Council.	6-26-2012
41	108L	Establishing career incentive pay program for full-time police officers.	9-22-1970
41	111A	Vacations for police and firemen.	Paper # 3932
44	8A	Certain purposes for incurring debts outside limit of indebtedness.	12-12-1939
44	16A	Facsimile signatures on bonds, notes, etc.	3-24-1964
48	4	Firewards.	2-6-1940
48	57B	Leave of absence for firefighters to attend union convention of not more than four days.	5-26-1970

48	57F	Police chiefs; working on holidays, additional pay.	5-28-1968
48	58A	Seventy-hour work week for Fire Department.	10-6-1942
48	59	Two platoon police system	11-7-1922
48	59A	Mutual aid programs for fire departments.	8-9-1988
48	59B to 59D	Reserve fire forces in cities and towns.	10-3-1929
49	2	Vote to authorize treasurer, emergency finance board.	6-5-1934
54	103A	Absentee voting for City elections.	12-14-1965
59	5	Property exemptions.	5-12-1987
59	5	Property exemptions.	5-24-1988
59	57c	Allows issuance of preliminary billing for real estate and personal property taxes on a quarterly basis	2-27-2001
60	3C	Establishment of Scholarship Committee	8-22-1995
60A	1	Exemption of excise tax on vehicles owned and registered to former prisoners of war.	10-25-1983
64G	3A	Allowing a city or town to impose a local excise tax upon transfer of occupancy of any room or rooms in a bed-and-breakfast establishment, hotel, lodging house or motel by any operator at a rate up to, but not exceeding, 4% of the total amount of rent for such occupancy. (Rate for local excise tax set at 4%)	1-25-2000
64L	2(a)	Local meal excise tax. The local meals excise tax shall be .075% on the sale of restaurant meals originating within the municipality and shall apply to all meals subject to state sales tax.	5-25-2010
71	40	Compensation for school teachers; equality of female teachers.	12-10-1946
71	40	Minimum salary of teachers.	1-10-1989
71	71E	Expenditure by school committees of receipts from certain programs-Adult education and summer school.	2-14-1978
82	37	Building lines.	12-20-1926
85	11A	Registration and regulation of bicycles.	Paper # 4526
90	18A	Rules regulating use of ways by pedestrians.	4-22-1969
90	20A, 20C, 20D and 20E.	Control of parking violations.	11-24-1981
90	20C	Violation of parking regulations, etc.	4-11-1972
94	120, 120A	License fees for slaughterhouses.	Paper # 5111
116	1	Local early retirement incentive program	7-23-2002
136	2, 21 to 28	Attendance at or taking part in certain entertainments on the Lord's Day.	6-6-1929
136	4B	Licenses for operation of bowling alleys	9-3-1946

		on the Lord's Day.	
136	7, 8	Licenses for sale of frozen desserts, ice cream mix, confectionery, soda water or fruit on the Lord's Day.	Paper # 4500
138	17A	Authority to grant additional licenses.	4-12-1983
139	1 to 3	Burnt or dangerous buildings as common nuisances.	Paper # 5964
144		Tenement houses.	Paper # 4212
147	16B	One day off in six for members of Police Department.	5-6-1941
147	16C	One day off per week for members of Police Department.	Paper # 4334
148	56	Licenses for operating open-air parking spaces.	Paper # 4312
258	13	Indemnification of municipal officers.	1-12-1982
268A	1(n)	Designating people performing professional services on a part-time, intermittent or consultant basis as special municipal employees.	12-27-2012

PART II
REVISED ORDINANCES

CHAPTER 1. GENERAL PROVISIONS.

Sec. 1-1. Official title of ordinances; continuation of existing ordinances.

The ordinances contained in this chapter and in the chapters following shall constitute and be designated as the "Revised Ordinances of the City of North Adams," and may be so cited. So far as their provisions are the same in effect as those of previously existing ordinances, they shall be construed as a continuation of those ordinances.

Sec. 1-2. Prospective effect of Revised Ordinances; continuation of offices; repealed ordinances not revived.

All ordinances and parts of ordinances passed and ordained by the city council prior to March 24, 1964, are hereby declared to be and are hereby repealed from and after such day; provided, however, that such repeal shall not in any way affect the existing zoning ordinances of the city or any amendments thereto; nor shall it affect any ordinance or bylaw establishing salaries or wages of city officers and employees; nor shall it affect any ordinance or bylaw establishing a

classification for city officers and employees; nor shall it affect an ordinance authorizing the city to enter into an agreement with the Town of Clarksburg to dispose of sewage from a certain portion of the town; nor revive any ordinance heretofore repealed or superseded; nor any office heretofore abolished; it shall not affect the acceptance and adoption of any act of the legislature heretofore lawfully accepted and adopted, and it shall not affect any act done or any right accruing, accrued or established, or any proceedings, doings or acts ratified or confirmed, or any suit or proceedings had or commenced before the repeal takes effect, but the proceedings therein shall, when necessary, conform to the provisions of this chapter and the following chapters of this volume; it shall not affect any penalty or forfeiture incurred before it takes effect, under any of the ordinances repealed; it shall not affect any suit or prosecution, pending at the time of the repeal for an offense committed, or for the recovery of a penalty or forfeiture incurred under any of the ordinances repealed, except that the proceedings therein shall, when necessary, conform to the provisions of this and the following chapter; and when a limitation or period of time prescribed in any of the ordinances repealed, for acquiring a right or barring a remedy or for any other purpose, has begun to run and the same or similar limitation is prescribed in this volume and the term of limitation shall continue to run, and shall have like effects as if the whole period had, begun and ended under the operation of the provisions of this volume. All persons who, at the time when such repeal takes effect, hold any office under any of the ordinances repealed shall continue to hold the same according to the tenure thereof, except those offices which have been abolished, and those as to which a different provision has been lawfully made. The provisions of this chapter and the following chapters of this volume, so far as they are the same as those of existing ordinances, shall be construed as a continuation thereof and not as new enactments.

Sec. 1-3. Rules of construction.

In the construction of the Revised Ordinances, and of all other ordinances of the city, the following rules of construction shall be observed, unless the construction thereby attained would be inconsistent with the manifest intent of the city council or repugnant to the context of the ordinance:

Charter. Whenever reference is made to "Charter" or "the Charter" it shall mean Plan A Charter under the provisions of General Laws, chapter 43.

City. The words "city" or "the city" shall be construed as if the words "of North Adams" followed them.

City council. The words "city council" or "council" shall mean the city council of the City of North Adams.

Computation of time. The time in which an act is to be done shall be computed by excluding the first and including the last day; if the last day be Sunday or a legal holiday, that shall be excluded.

County. The words "county" or "the county" shall be construed as if "Berkshire" followed them.

Gender. Words used in the masculine gender shall include the feminine and neuter.

Joint authority. Words purporting to give a joint authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

Month. The word "month" shall mean a calendar month.

Number. The word "numbers" importing the singular number only may be extended and he applied to several persons and things as well as to one person and thing.

Oath. The word "oath" shall be construed to include affirmation in all cases in which, by law, an affirmation may be substituted for an oath; in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

Officer. The word "officer" shall include officers, boards and commissions in charge of departments and the members of such boards.

Owner. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

Preceding following. The words "preceding" and "following" mean next before and next after, respectively.

Statute references. Whenever reference is made to G. L., C. ..... § ..... this shall mean the Tercentenary Edition of the General Laws and all acts and amendments in addition thereto.
Whenever reference is made to "statutes", it shall mean the Tercentenary Edition of the General Laws and all acts and amendments in addition thereto.

Street, highways and ways. The words "street", "highways" and "ways" shall be construed as including alleys, avenues, boulevards, courts, lanes, public places, public squares, sidewalks, streets and all other public ways in the city, and each of these words includes every other of them.

Tenant. The word "tenant" or "occupant", applied to a building or land, shall include any person who occupies the whole or part of such building or land, either alone or with others.

Time. Words used in the past or present tense include the future as well as the past and present.

Writing. The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise. (12-12-67.)

Sec. 1-4. Definition and enacting style of ordinances. [EN(2)]

All bylaws of the city shall be termed "Ordinances", and the enacting style shall be "Be it ordained by the City Council of North Adams, as follows."

Sec. 1-5. Recordation of ordinances. [EN(3)]

All ordinances shall be recorded by the city clerk in the order in which they are passed to be ordained, in a book prepared and kept for that purpose, made of strong linen paper with proper indexes, and strongly bound. Such book shall be lettered "Record of Ordinances, City of North Adams", and shall be preserved in the office of the city clerk and shall be open to public inspection.

Sec. 1-6. Order; resolve.

Whenever the city council expresses anything by way of command, the form of expression shall be "ordered"; and when the council expresses opinions, principles, facts or purposes, the form shall be "Resolved."

Sec. 1-7. Effective date of Revised Ordinances, etc.

The Revised Ordinances of the city, and every ordinance hereafter ordained shall take effect in accordance with the provisions of General Laws, chapter 43, section 23.

Sec. 1-8. Severability of Revised Ordinances.

If any part or parts, section or subsection, clause or phrase of these Revised Ordinances is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validation of the remaining portions of such Revised Ordinances.

Sec. 1-9. Catchlines of sections.

The catchlines of the several sections of the Revised Ordinances printed in boldface type are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-10. City seal--Description. EN(4)

The seal of the city shall be a circle one and three-quarters inches in diameter, having in the center a representation of the Hoosac mountain and the west portal of the Hoosac tunnel from which issues a train of cars at full speed, in the margin of the upper part the words, "WE HOLD THE WESTERN GATEWAY", at the lower part the words and figures, "NORTH ADAMS, MASSACHUSETTS 1895". Such device shall be arranged according to the illustration shown in this section, but color shall not be an essential part of said seal.

Sec. 1-11. Same--Use. EN(5)

All deeds and other legal instruments made, given or entered into by the city, requiring a seal, shall be sealed with the city seal.

Sec. 1-12. Same--Custodian. EN(6)

The city clerk shall be custodian of the city seal and shall permit any officer of the city to affix the same to any document to which the city seal is required to be affixed.

Sec. 1-13. Licenses and permits. EN(7)

When in an ordinance anything is prohibited from being done without the license or permission of a certain officer or board, such officer or board shall have the power to license or permit such thing to be done. Nothing herein shall be held to permit the waiver or violation of any provision of an ordinance.

Sec. 1-14. Deeds, contracts, etc. EN(8)

All deeds, conveyances, leases and other instruments which shall be given by the City, and which must be signed, sealed and acknowledged, shall be signed, acknowledged and delivered, on behalf of the City, by the Mayor, who shall affix thereto the City Seal; but this provision shall not be construed to prevent any officer from executing any conveyance, lease, contract or other instrument in the performance of the duties devolving upon him. The Mayor may also discharge any mortgage when the amount due and payable thereon has been paid or may assign the same without liability or recourse to the City, and for that purpose may execute and deliver all necessary papers.

Sec. 1-15. Ward lines.

The several wards of the City of North Adams shall be bounded and constituted as follows unless changed as provided by the statutes:

Ward 1: Beginning at a point at the Clarksburg, North Adams line which point marks the center line of Lorraine Drive thence easterly along the North Adams, Clarksburg line to the North Adams, Clarksburg, Florida corporate boundary; thence southerly along the North Adams, Florida boundary line to the center line of the Hoosac Tunnel; thence westerly along the center line of the Hoosac Tunnel to its intersection with the center line of West Shaft Road; thence northerly along the center line of West Shaft Road to its intersection with the center line of Old West Shaft Road; thence northwesterly along the center line of Old West Shaft Road to its intersection with the center line of the Mohawk Trail; thence northwestly along the center line of the Mohawk Trail to its intersection with the center line of East Main Street; thence westerly along the center line of East Main Street to its intersection with the center line of Church Street; thence northerly along the center line of Church Street to its intersection with the center line of Eagle Street; thence northerly along the center line of Eagle Street to its intersection with the center line of Franklin Street; thence northeasterly along the center line of Franklin Street to its intersection with the center line of Central Avenue; thence northerly along the center line of Central Avenue to its intersection with the center line of Barth Street, thence easterly along the center line of Barth Street to its intersection with the center line of Lorraine Drive; thence northerly along the center line of Lorraine Drive to the point and place of beginning. (Ord. of 10-25-2011)

Ward 2: Beginning at the center line of the Hoosac Tunnel and the boundary line of North Adams and Florida thence southerly along the North Adams, Florida town line to the Adams town line; thence westerly along the Adams town line to its intersection with the center line of Church Street thence northerly along the center line of Church Street to its intersection with the center line of East Main Street then easterly along the center line of East Main Street to its intersection with the Mohawk Trail; thence southeasterly along the center line of the Mohawk Trail to its intersection with the center line of Old West Shaft Road; thence southeasterly along the center line of Old West Shaft Road to its intersection with the center line of West Shaft Road; thence southerly along the center line of West Shaft Road to its intersection with the center line

of the Hoosac Tunnel; thence easterly along the center line of the Hoosac Tunnel to the place of beginning. (Ord. of 10-25-2011)

Ward 3: Beginning at a point on the Adams town line at its intersection with the center line of Church Street; thence westerly along the Adams town line to the center line of the main brook flowing into the Notch Reservoir (Notch Brook); thence northerly along the center lines of Notch Brook, Notch Reservoir, and again Notch Brook to its intersection with the center line of Reservoir Road; thence northerly and northeasterly along the center line of said Reservoir Road to a point of intersection with the center line of a high tension transmission line; thence northerly along the center line of said transmission line to a point of intersection with the center line of West Main Street at Brown Street; thence easterly along the center line of West Main Street to the center line of Veterans Memorial Drive; thence easterly along the center line of Veterans Memorial Drive to the center line of Eagle Street; thence southerly along the center line of Eagle Street to the center line of Church Street; thence southerly along the center line of Church Street to the Adams town line and the place of beginning.

Ward 4: Beginning at a point on the Williamstown town line that intersects with the center line of a high tension transmission line; thence easterly along the center line of said transmission line to a point of intersection with the center line of the Sherman Brook; thence southerly along the center line of the Sherman Brook; to a point of intersection with the center line of the Boston and Maine Railroad track, thence easterly along the center line of the Boston and Maine Railroad track to a point of intersection with the center line of Roberts Drive; thence southeasterly along the center line of Roberts Drive to a point of intersection with the center line of West Main Street; thence easterly along the center line of West Main Street to a point of intersection with the center line of a high tension transmission line at Brown Street; thence south along the center line of said transmission line to a point of intersection with the center line of Reservoir Road; thence southerly along the center line of Reservoir Road to a point of intersection with the center line of Notch Brook, thence southerly along the center line of the Notch Brook, the Notch Reservoir and the main brook flowing into the Notch Reservoir, to the Adams town line; thence westerly along the Adams town line to the Williamstown town line; thence northerly, westerly and northerly, in three courses, along the Williamstown town line to the point and place of beginning.

Ward 5: Beginning at a point at the Clarksburg, North Adams line which point marks the center line of Lorraine Drive; thence southerly along its center line to its intersection with the center line of Barth Street; thence westerly along the center line Barth Street to its intersection with the center line of Central Avenue; thence southerly along the center line of Central Avenue to its intersection with Franklin Street; thence southwesterly along the center line of Franklin Street to its intersection with the center line of Eagle Street; thence southerly along the center line of Eagle Street to a point of intersection with the center line of Veteran's Memorial Drive; thence westerly along the center line of Veteran's Memorial Drive to the center line of West Main Street; thence westerly along the center line of West Main Street to a point of intersection with the center line of Roberts Drive; thence northwesterly along the center line of Roberts Drive to a point of intersection with the center line of the Boston and Main Railroad track; thence westerly

along the center line of the Boston and Maine Railroad track to a point of intersection with the Sherman Brook; thence northerly along the center line of the Sherman Brook to the point of intersection with the high tension transmission line; thence westerly along the center line of said transmission line to a point on the Williamstown town line; thence northerly along the Williamstown town line to the Clarksburg town line; thence continuing along the Clarksburg town line to the point and place of beginning. (Ord. of 9-12-1978; Ord. of 5-28-1985; Ord. of 3-25-1986; Ord. of 5-13-1986; Ord. of 2-23-1993; Ord. of 3-23-1993; Ord. of 8-24-1993; Ord. of 6-26-2001; Ord. of 9-25-2001; Ord. of 10-25-2011)

Sec. 1-16. Reserved.[EN(9)]

Sec. 1-17. Reserved.[EN(10)]

CHAPTER 2. ADMINISTRATION.

ARTICLE I, . IN GENERAL.

Sec. 2-1. Council meetings.

Regular meetings of the City Council shall be held in the City Council chamber, City Hall, at 7:30 p.m. on the second and fourth Tuesdays of each month, except when one of such Tuesdays falls on a legal holiday or on Election Day. The Council shall meet on the following day in such event.

The Mayor or the President or a majority of the members of the City Council may at any time call a special meeting of the City Council by causing a written notification thereof, together with a statement of the subjects to be considered thereat, to be filed with the City Clerk; and a copy thereof is to be deposited in the post office, postpaid, and addressed to the Councillors to be notified, or left at each Councillor's usual place of residence, and the public posting of such notice on the official municipal bulletin board at least 24 hours before the time appointed for such meeting. (10-11-1965)

Sec. 2-2. Annual report of City officers.

Every officer in charge of a department, board or commission shall annually, on or before the first day of February, transmit to the Mayor a report containing a statement of the acts and doings of the department, board or commission, together with such other matters as may be required by law, or as the Mayor or officer may deem to be of public interest.

Sec. 2-3. Oath of office.

Every officer in charge of a department, other officers, members of boards, commissions, fire and police departments shall be sworn to the faithful performance of their duties before entering upon same.

Sec. 2-4. Board of License Commissioners.[EN(11)]

There shall be a Board of License Commissioners which shall consist of three members appointed in accordance with the provisions of General Laws, Chapter 138, Section 4, who shall have such powers and perform such duties as are prescribed by law, in addition to such powers and duties as the City Council, by ordinance, may from time to time prescribe. Members shall receive such compensation as the City Council may determine.

Sec. 2-5. Identification and operation of City vehicles.

All city-owned or -operated vehicles and equipment operating on wheels, which the Mayor or his designee may designate to be identified by a decalcomania transfer, shall be identified by use of decalcomania transfers, which shall be made up as follows:

The background of the transfer shall be red and all figures and letters shall be white. City of North Adams shall be executed in block letters; the words "City" and "North Adams" to be made of letters not less than two inches in height. The word "City" shall be at the top center of the transfer; the word "of" centered under the word "City"; the words "North Adams" shall be placed under the word "of" and extended across the entire width of the transfer. In the upper left-hand corner in a three-inch circle, a reproduction of the City seal in red on a white background shall be shown. In the upper right-hand corner there shall be a white oblong, whose outside measurement shall be 33/4 of an inch wide and 21/2 inches high. This oblong is to contain the number of the vehicle, such number to be either painted on the transfer or installed by the use of decalcomania transfer numbers.

The size of the transfer shall be 15 inches wide and eight inches high, and there shall be a white line 1/8 of an inch in width framing all of the lettering, numbers and the City seal. The outside edge of this frame shall be 5/16 of an inch in from the outside edge of the transfer.

The Mayor of his designee is responsible for the assignment of personnel to operate all

city-owned or -operated vehicles and equipment. (Ord. of 2-8-1994)

Sec. 2-6. Assignment of numbers.

The Mayor or his designee shall assign numbers to all vehicles and equipment operating on wheels and shall keep a record of such assignments. (Ord. of 2-8-1994)

Sec. 2-7. Taking City vehicles, etc., outside City limits.

No city-owned vehicle or piece of equipment shall be taken beyond the limits of the City without the permission of the Mayor or his designee. (Ord. of 2-8-1994)

ARTICLE II, . REGULATIONS GENERALLY CONCERNING EMPLOYMENT OF OFFICERS AND EMPLOYEES.

Sec. 2-8. Scope of article.

This article shall apply to all departments, boards and offices of the city, and all employees thereof, except the School Department.

Sec. 2-9. Budgetary limitations.

Nothing contained in this article shall operate or be construed to authorize or permit any department head, officer, official or employee of the City to incur any obligation or to make any expenditure in excess of any appropriation made therefor, or for which no appropriation has been made; nor shall this article operate or be construed to impose any liability upon the City for any obligation or debt incurred in excess of such appropriation or in the absence of such appropriation therefor.

Sec. 2-10. Office hours.

The offices of the departments of the City shall be open to the public during the following hours:

(a) *All departments, except public library,* 8:00 a.m. to 4:30 p.m. daily, except Saturdays, Sundays, and legal holidays set forth and enumerated in Chapter 4, Section 7 of the

General Laws.

(b) *Public library*, 9:00 a.m. to 8:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 noon on Saturdays. The library will be closed on Sundays and legal holidays.

Notwithstanding the provisions of this section, the mayor, by executive order, may close any municipal department on not more than four occasions in each calendar year for not more than one day, or portion thereof. (4-23-74; Ord. of 1-8-85)

State law reference--Law of the commonwealth as to closing City offices on Saturday, G.L., C. 41, § 110A.

Sec. 2-11. Hours of employment.

(a) *Offices.* The regular hours of employment for department heads and all office and clerical employees, except library personnel, shall be from 8:00 a.m. to 4:30 p.m., daily except Saturdays, Sundays, and legal holidays. All employees covered by this section shall be entitled to a one hour lunch period. The regular hours of employment of library personnel shall be such as may be established by the mayor and library trustees.

(b) *Other than offices.* To the extent possible, consistent with public service and the conduct of the affairs of the city, and subject to the exceptions hereinafter stated, it is declared that the normal working hours for employees of the city, including the public library, shall not exceed eight hours in any one day, nor forty hours in any one week.

(c) *Exceptions to paragraphs (a) and (b).* By reason of the varied nature of the duties and functions of certain departments of the city, it is hereby declared that the normal work day and normal work week for such employees shall be as follows:

(1) *Fire department.* Forty-two hours per week.

(2) *Watershed caretaker.* Such hours as are necessary for the care and maintenance of the watershed and reservoir areas.

(3) *Building custodians,* janitors and watchmen. Such hours, shifts and days as may be established from time to time by the head of the department concerned.

(4) *City infirmary.* Such hours, shifts and days as may be established from time to time by the commissioner of public welfare.

(5) *Election officers.* From the opening of the polls to such hour as may be necessary for the completion of their duties.

(6) *Recreation commission* Such hours, shifts and days as may be established from time

to time by the recreation commission.

The foregoing list of exceptions shall not be considered exclusive; and such additional exceptions shall be made as may be required by law, or as may be necessary to conform to established practice as to any other office, position, job or employment. (12-26-67; 4-23-74; 8-13-74; Ord. of 1-8-85)

Sec. 2-12. Vacation periods.

All employees of the city, governed by this article, who have actually worked 30 weeks in the aggregate, during the 12 months preceding the first day of June of the vacation year shall be entitled to vacations as follows:

This paragraph applies to all employees except those in the fire, police, public works, cemetery, and parks and recreation departments.

Years of Service	Working Days
Less than 2	10
From 2 to 5	12
From 5 to 10	17
From 10 to 15	21
From 15 to 20	24
More than 20	28

Vacation periods are not cumulative and must be taken in the year granted. All requests for vacation periods shall be granted on the basis of seniority in each department. Discharged persons shall not be entitled to vacation pay. All such vacations shall be granted by the heads of the several departments of the City at such time as in their opinion will cause the least interference with the performance of the regular work of the city. (12-26-67; 4-8-69; 6-9-70; 2-23-71; Ord. of 11-27-79; Ord. of 12-9-80)

State law reference--Vacations of certain employees, G.L., C. 41, § 111.

Sec. 2-13. Disability of firemen and policemen resulting from performance of duty.

The heads, officers and members of the fire department and the police department shall continue to receive their regular compensation during the period of their temporary absence from duty because of total disability resulting from personal injuries arising out of and in the course of their employment, or arising out of ordinary risks of the street while actually engaged, with the authorization of the city, in the business affairs or undertakings of the city, or during the period of their temporary absence from duty because of total disability resulting from sickness or illness

arising out of and in the course of their employment.

Cross reference--Department of public safety, Ch. 8.

Sec. 2-14. Disability of officers and employees not resulting from performance of duty.

All department heads, officers, officials and employees of the City shall continue to receive their regular compensation during the period of their absence from duty because of total disability resulting from personal injuries, sickness or illness and not arising out of and in the course of their employment. Compensation for such disability shall be limited to one day for each three weeks of service in the preceding 12 months, but not more than 15 days in any twelve-month period. Holidays and any other day or days not included in the normal work week shall not be included in the computation of the number of days allowed hereunder. The unused portion of any sick leave allowed hereunder may be accumulated. No sick leave shall be allowed or accumulated hereunder during the first 12 months of service or employment. (12-26-67)

Sec. 2-14.1. Physical examination prerequisite to employment; exceptions.

No person shall be originally hired until the department head of the department in which such person is to be employed shall have certified in writing to the mayor and the City auditor that such person or employee has undergone a physical examination and has been found physically fit to perform the duties of his position. Such examination shall be performed at the expense of the City by a physician designated by the mayor.

The provisions of this section shall not apply to elected officials, to persons appointed by the mayor who are not subject to civil service regulations or to employees of the school department, and nothing contained in this section shall be held to abridge the powers otherwise granted by law or ordinance to an official in the hiring, reinstatement or promotion of employees. (Ord. of 12-26-84)

Sec. 2-15. Exceptions to sections 2-13 and 2-14.

No person shall be entitled to any compensation or benefits under this chapter for any period of disability resulting in whole or in part from:

(a) The voluntary use of intoxicating liquor, drugs or narcotics.

(b) A venereal disease.

(c) Self-inflicted injuries.

(d) Injuries sustained while engaged in or resulting from or arising out of the commission of

a felony or of a misdemeanor involving moral turpitude.

(e) Injuries sustained while engaged in or resulting from or arising out of the violation of any lawful rule or regulation of the department in which employed.

Sec. 2-16. Report of disability.

No person shall be entitled to compensation under this article, for any period of disability unless such disability and the cause or reason therefor is reported immediately to the department head or the office thereof. In the case of disability of the department head, such report shall be made to the office of the mayor. Any person who feigns sickness, injury or disability or who makes a false statement relative thereto shall be subject to immediate suspension.

Sec. 2-17. Verification of disability.

It shall be the duty of department heads to take or cause to be taken such reasonable steps as may be necessary to determine and verify the existence and cause of any disability for which compensation is claimed under the provisions of this article.

See. 2-18. Examination by City physician during disability.

It shall be the duty of the City physician, upon request of the mayor or any department head, to examine any person claiming compensation under this chapter for any period of disability, and to report the results of such examination to the mayor or department head as frequently as requested during such period of disability. It shall also be the duty of the City physician to report to the mayor or department head requesting such examination when the total disability of the person examined terminates. This section shall not operate or be construed to entitle any disabled person to medical treatment or services by the City physician.

Sec. 2-19. Absence for personal reasons.

All permanent department heads, officers, officials and employees of the City shall receive their regular compensation during absence from work due to the death of his parent, stepparent, grandparent, grandchild, husband, wife, child, stepchild, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt or uncle. Such absence shall be limited to three days for the death of any such relative, and to five days during any period of 12 months. In no event shall compensation for any absence be allowed hereunder for more than one day for each 10 weeks of service rendered during the preceding 12 months.

All permanent department heads, officers, officials, and employees of the city, except members

of the fire department and members of the police department, shall be entitled to one day's leave on the day following Thanksgiving day for personal reasons in addition to the absences as hereinabove set forth without loss of pay. In the event that any such employee shall be required to perform work or render services on such clay, he shall receive regular compensation for that day and shall not be entitled to any holiday pay as provided in section 2-22. However, if required to work on such a day he shall receive compensatory time off equivalent to the number of hours worked, not to exceed eight hours.

All permanent employees of the public works, parks and recreation, and cemetery departments shall be entitled to three days' leave, all permanent employees of the fire department shall be entitled to four days' leave and all permanent employees of the police department shall be entitled to four days' leave during any period of 12 months for personal reasons, in addition to the absences for personal reasons as here and above set forth, without loss of pay. Such leave shall not be cumulative and shall require 24 hours prior notice to be given to the chief or commissioner of public works as the case may be, and such employees must receive the chief's, commissioners or department head's approval as to the day. (4-8-69; 9-23-69; 5-12-70; 5-23-72; 8-8-72; Ord. of 11-27-79; Ord. of 10-28-80)

See. 2-20. Absences not deductible from vacation.

The time or period during which any person shall be entitled to compensation under this chapter for absences due to disability or for deaths of relatives shall not be deducted from the vacation period to which such person is otherwise entitled and such time or period of absence shall be included in computing the number of weeks of service in determining the basis for the allowance of such vacation period.

Sec. 2-21. Compensation for absence on holidays, except as otherwise provided in this article.

All department heads, officers, officials, regular employed permanent employees and provisional appointees performing the work of such employees, whose compensation is fixed on an annual or hourly basis, shall receive their regular compensation for all legal holidays or parts thereof during which the public offices of the City are closed. In order to qualify hereunder for compensation for any such holiday, such person must have been regularly scheduled to work on such day and shall have worked on all the last regularly scheduled work days prior to, and the next regularly scheduled work day following such holiday, unless the absence on such regularly scheduled work day is due to jury service or is an absence for which compensation is payable under this article.

Notwithstanding the foregoing, regular hourly paid employees employed by the City (excepting those employed in the police and fire departments and public library) shall receive an additional

day's compensation in the event that a holiday is defined in chapter 4, section 7 of the General Laws (Ter. Ed) as amended occurs on a Saturday, providing such employees shall have worked on all of the days of the last regularly scheduled work week prior to, and the next regularly scheduled work day following such holiday, unless the absence on such regularly scheduled work day is due to jury service or is an absence for which compensation is payable under this article. (3-14-67; 12-26-67; 12-23-68)

Sec. 2-22. Compensation generally for work performed on Sundays or holidays.

Except as hereinafter provided, any employee, whose compensation is fixed at an hourly rate and who shall be required to perform work or to render services on one of the holidays listed in chapter 4 section 7 of the General Laws, or on the Lord's Day, shall be paid therefor two and one-half times his regular compensation, except on the Lord's Day which shall be paid therefor double his regular compensation. This provision shall not apply to the employees of any department engaged in continuous or shift operations or whose duties or working scheduled regularly require services to be rendered as such holidays or the Lord's Day. Work and services for which increased compensation is payable under this section for which increased compensation is payable under this section shall be limited to cases of unforeseen emergencies requiring immediate attention, and shall not be subject to any other additional or increased compensation under any other provision of this article relating to compensation for overtime work. (12-26-67; 3-25-69.)

Sec. 2-23. Compensation to firemen and policemen for work performed on holidays.

When required to work on a legal holiday, as defined in section 7 of chapter 4 of the General Laws, permanent members of the police and fire departments shall be entitled to an additional day off or, if such additional day off cannot be granted, because of personal shortage or other cause, such members shall be entitled to an additional day's pay; provided that in the case of a member whose work schedule provides for a regular day off falling on any of the aforementioned holidays an additional day off shall be allowed or payment in lieu of one day shall be allowed.

Any permanent member of such departments, who is required to serve a tour of duty during the twenty-four hour period, commencing at 8:00 A.M. of a holiday, shall be entitled to the provisions of this section.

Any permanent member of such departments, who is on sick leave, shall not be entitled to the provisions of this section.

In computing the amount of the day's pay to be allowed for each holiday for which any member of the departments is entitled to be paid, the yearly compensation of the member involved shall be divided by fifty-two, and the quotient thereof shall be divided by five, and the result thereof

shall be the additional amount to be paid such member (5-28-68)

Sec. 2-24. Compensation for overtime.

The several officers, officials and employees of the City shall receive compensation as follows for work performed and services rendered in excess of their regular work week, such work and services being hereinafter called overtime work:

(a) *Department heads.* Department heads shall not be entitled to any compensation for overtime unless otherwise provided by ordinance.

(b) *Salaried employees*. Foremen and other supervisory personnel, including the wire inspector and the assistant wire inspector whose compensation is fixed on a per annum basis, who direct or supervise the work of other persons whose compensation is fixed at an hourly rate, shall be paid at their regular rate of compensation for overtime work made necessary by unforeseen emergencies which require immediate attention, and for any other overtime work which can reasonably be anticipated in connection with the timely completion of scheduled work and which is approved by the mayor. All other salaried personnel shall not be entitled to any compensation for overtime, unless otherwise provided by ordinance.

(c) *Hourly rated employees.* All employees whose compensation is fixed at an hourly rate shall be paid at their regular rate plus an amount equal to fifty per centum thereof for all work performed and services rendered in excess of eight hours in any regularly scheduled work day during a regularly scheduled work week. In the event that work is not regularly scheduled on a Saturday or part thereof, such hourly rated employees performing work or rendering services on such Saturday or portion thereof, shall be paid at their regular rate plus an amount equal to fifty per centum thereof. The regularly scheduled work week under this section is as follows:

1. Public works department, Monday through Friday, inclusive.

2. Cemetery department, Monday through Friday, inclusive.

3. Recreation department, Monday through Friday, inclusive, through the summer months, and Sunday through Saturday, inclusive, through the winter months. The decision of the recreation commission as to what months constitute summer and winter months shall be final.

If any such employee shall have worked for a continuous period of not less than twenty-nine hours, exclusive of a total of one hour for lunch during such period, such employee shall be paid at his regular rate plus an amount equal to fifty per cent thereof for such overtime hours he may have earned during such period of time notwithstanding that such employee has not completed all of the regularly scheduled eight hour work day a portion of which is included in the

twenty-nine hour period.

Department heads shall require such employees to work overtime only when made necessary by unforeseen emergencies which require immediate attention. Any other overtime work which can reasonably be anticipated shall require the approval of the mayor. (12-26-67; 227-68; 9-23-69; 5-23-72.)

Sec. 2-25. Call in pay.

Hourly rated employees who are called in to perform work or render services outside of their regular working hours, shall, for each such occurrence, be paid a minimum sum equal to their compensation for four hours at their regular rate of compensation. This minimum pay provision shall not apply to any work performed or services rendered immediately before or after the regularly scheduled hours of work of any employee, and without interruption or cessation except for meals.

Any police officer called into work outside his regular hours shall be paid a minimum of four hours at his regular hourly rate of compensation if he cannot be given compensatory time off during a thirty day period subsequent thereto, except that he shall be paid for four hours or the hours actually worked, whichever be greater, at his regular hourly rate of compensation when called into work in place of regularly assigned officer at the polls, at parades, or at public celebrations. Regular rate, as used in this paragraph shall be determined by dividing the yearly salary by fifty-two weeks, and by dividing the quotient thus obtained by forty hours. (4-8-69.)

Sec. 2-26. Permanent personnel insurance.

All permanent employees of the City shall be eligible, after six months of employment or service, to participate in any plan of contributory group life, accident, hospitalization, medical and surgical insurance, as provided by General Laws, chapter 32B.

Article III. Classification and Pay Plans.[EN(12)]

See. 2-27. Classification plan.

A plan classifying certain positions into groups and classes doing substantially similar work is hereby established, such plan to be known as a classification plan, as set forth in Schedule A[EN(13)] which is made a part of this article.

See. 2-28. Compensation plan.

(a) The compensation plan shall consist of minimum and maximum salaries paid to all employees in any position subject to the classification plan. This plan as set forth in Schedule B, consisting of Parts I through IV, is made a part hereof.[EN(14)]

(b) All fees, charges or commissions allowed by law to the City clerk, shall be paid into the City treasury and belong to the city; in accordance with section 108 of chapter 41 of the General Laws.

Sec. 2-29. Job titles.

No person shall be appointed, employed or paid in any position subject to the provisions of this article, under any title other than that of the appropriate position in the classification plan. The title of each class as set forth in the classification plan shall be the official title of every position allocated to the class for all purposes having to do with the position as such, and shall be used to designate the position in all payrolls, budget estimates and official records relating thereto, but the applicable grade number in the compensation plan may be used in lieu thereof.

Sec. 2-30. Compensation of employees generally.

(a) All employees subject to the provisions of this article who are receiving less than the minimum rate of compensation for the position set forth in the annexed schedules shall receive the minimum rate at the effective date hereof; except that this subsection shall not apply to any salary schedule amendment in the event an employee is at any step above minimum or- at maximum within his grade number, in which event such employee shall retain the level achieved.

(b) All new employees, subject to the provisions of this article, shall be paid at the minimum rate of compensation for the position held as set forth in the compensation plan.

(c) All employees, subject to the provisions of this article, who, are receiving more than the minimum, but less than the maximum rate of compensation for the position as set forth in the classification and pay plans, shall be paid at the rate of compensation equal to their current rate in the range for the position held, but if no step in the range is equal to their current compensation, then such employees shall be paid at the rate of compensation next higher than their current rate of compensation in the range for the position held.

(d) Step increases shall not be automatic but shall be based upon the skill and competence with which an employee performs the duties of his position. After not less than one year's service at any compensation level, a step increase to the next higher compensation

level in the range for the position held may be granted to an employee upon the written recommendation of the department head, board or commission supervising the work of the employee, subject to the approval of the mayor when necessary. When a promotion from one job classification to another with a higher compensation range is made, the employee shall be paid at the rate of compensation next higher to his current rate. Upon the adoption of an amendment to the salary schedule increasing the minimum and maximum rates thereof and the steps between such minimum and maximum, or any of the same, any employee who has attained a particular level, shall retain the level achieved and receive the rate of compensation thereunder in the amended salary schedule. Notwithstanding any provision herein to the contrary, the mayor with the approval of the City council may promote an employee more than one step within his respective "grade number" up to and including the maximum; and the employee shall be paid at the rate of compensation of the step or maximum to which he has been so promoted.

(e) Provisional or reserve service in the police or fire department shall be included in computing length of service. However, an appointment or promotion into a higher rank shall cancel such length of service attained by the officer or member, prior to his promotion, for the purposes of the salary schedule only. (1-24-1967)

Sec. 2-31. Civil Service Law.

Nothing contained in this article shall be construed to conflict with Chapter 31 of the General Laws.

Secs. 2-31.1 -- 2-31.4. Reserved[EN(15)]

Sec. 2-31.5. Payment of unused sick leave upon retirement.

Upon retirement, after 20 years of service as an employee of the City of a non-bargaining unit shall be entitled to $20 per day for each day of unused sick leave accumulated up to a maximum of 200 days for a maximum payment of $4,000, and after 25 years of service as an employee of the City of a non-bargaining unit shall be entitled to $25 per day from 201 days up to a maximum of 300 days for a maximum payment of $2,500. (Ord. of 1-24-1978; Ord. of 2-26-1980; Ord. of 2-9-1982; Ord. of 5-27-1986; Ord. of 12-9-2009)

Article IV. City Clerk.[EN(16)]

See. 2-32. Election; duties generally.

There shall be a City Clerk elected in accordance with the Provisions of General Laws, Chapter 43, Section 18, who shall have such powers and perform such duties as are prescribed by law, in addition to such powers and duties as the City Council, by ordinance or otherwise, may from time to time prescribe.

Sec. 2-33. Duty to notify officers, etc., of certain councilmanic action.

The City Clerk shall notify the City Auditor and the City Treasurer of all orders passed by the City Council authorizing appropriations and assessments. He shall also notify any board, officer or department of any ordinance, order or vote of the City Council pertaining to or in any way affecting the powers or duties of such board, officer or department within three days after the effective date of any such ordinance, order or vote.

Sec. 2-34. Assistant City Clerk.

The office of Assistant City Clerk is hereby established, under the authority of General Laws, Chapter 41, Section 18. He shall be appointed by the City Clerk, subject to confirmation by the City Council, and shall hold office for the term of three years from the date of his appointment and until a successor is appointed and qualified.

The Assistant City Clerk shall assist the City Clerk in the performance of the duties of his office and shall discharge the duties of that office when the City Clerk is absent, unable to act or when there is a vacancy in that office.

Article V. City Solicitor.[EN(17)]

Sec. 2-35. Qualifications; legal advisor to city; legal services account; litigation defense account.

There shall be a City Solicitor. He shall be an attorney and counselor-at-law admitted to practice in the courts of the commonwealth. He shall act as the legal advisor and solicitor of the City, except to the extent that the Mayor may authorize or require the advice or services of such additional counsel as he may deem advisable. No fees for legal services shall be paid by the City except as authorized under this Article.

The City Solicitor shall be paid a salary in accordance with the compensation plan.

In addition thereto, there shall be a legal services account, to be funded by an appropriation of the Mayor and the City Council, from which the City Solicitor and other counsel hired by the Mayor shall be compensated for legal services. The City Solicitor shall submit billings each month to the City for legal services showing time accounting, but payment for services rendered shall be by agreement with the Mayor. However, no fees for legal services shall be paid by the City to the City Solicitor in excess of the amount of funds appropriated annually to this account except as otherwise authorized under this article.

There shall also be a litigation defense account, to be funded by an appropriation of the Mayor and City Council, from which the City Solicitor shall have the right to withdraw sums as legal fees, upon billings by the City Solicitor showing time accounting, at a rate approved by order of the City Council. Said litigation defense account shall be used to compensate the City Solicitor, or other outside counsel engaged hereunder, for legal efforts in defense of the City, before the Superior Court, the Appeals Court, the Supreme Judicial Court, or any court of the United States of America. (Ord. of 1-27-1970, § 1; Ord. of 1-12-1982; Ord. of 7-8-1986)

Sec. 2-36. Duties generally.

The City Solicitor shall examine all titles to property when so requested by the City Council or a City official. The City Solicitor shall give his written approval thereon as to form and manner of execution of all deeds, obligations, contracts, bonds, leases, conveyances, agreements and other legal instruments which may be necessary to carry out the purposes of any ordinance or order of the City Council or to which the City or its agents may be a party, and no such instrument shall be a binding obligation of the City unless so approved, but this sentence shall not apply to any bond or note evidencing a debt of the City. All orders for the laying out, discontinuance, change or improvement of streets or ways, or for the taking of lands for any municipal purposes whatsoever or for the assessment of betterments shall be submitted to his examination before the same are offered for enactment.

The City Solicitor shall commence and prosecute on behalf of the City all actions and other proceedings at law or in equity desired to be begun by the City or by any officer thereof, and shall defend all actions and suits brought against the City. He shall appear as counsel in any other action, suit or prosecution which may involve the rights and interests of the City, and shall defend any of the officers of the City in suits or prosecutions against them for any official action or arising out of the performance of any official duty, when any estate, right, privilege, ordinance, act or order of the City government may be brought in question. This provision shall not authorize him, however, to act on behalf of any such officer in proceedings brought under the Charter for his removal. He shall also appear as counsel before the Legislature of the commonwealth, or any committee thereof or any governmental department, whenever so requested by the City Council, concerning any matter in which the interest and welfare of the

City may be directly or incidentally affected.

He shall, in all matters, do every professional act incident to the office which may be required of him by the City Council, or by any ordinance or order.

Sec. 2-37. Duty to furnish legal opinions.

The City Solicitor shall, whenever so required by the mayor, the City Council or any officer of the City government who may need the same in the discharge of official duty, furnish them or any of them with his legal opinion, upon any subject touching the duties of their respective offices. Whenever the opinion is required to be in writing, the question submitted for his consideration shall also be stated in writing.

Sec. 2-37.1. Secretarial-clerical assistance.

The City Solicitor may engage such secretarial-clerical assistance, as he deems appropriate, and such a person so engaged shall be compensated in grade PT-26 of Schedule B, Part V of the compensation plan. (Ord. of 6-24-1980)

Article VI. City Treasurer and Tax Collector[EN(18)]

Sec. 2-38. Duties generally; bond.

The City treasurer shall also be the collector of taxes, and shall have charge of the treasury department and the collection of taxes and all accounts receivable. He shall give a bond as City treasurer and a separate bond as collector of taxes, each with sufficient surety to be approved by the mayor, in sums of not less than the amount established by the commissioner of corporations and taxation for the faithful performance of his duties as Treasurer and Collector of Taxes. Such bonds shall be executed, approved and delivered to the City Clerk before he enters upon the duties of his office and within 10 days after his appointment. Should he fail to give such bonds within the time herein required, the appointment shall be void and a new appointment shall be made. The surety of each of such bonds shall be a corporation organized for the purpose of acting as surety on bonds, duly qualified to do business in this commonwealth. The City Clerk shall have the custody of the bonds of the Treasurer and Collector of Taxes and, upon receipt of same, shall give written notice thereof to the Mayor. Such bonds shall be in a form approved by the Commissioner of Corporations and Taxation, and a copy of the bond furnished as Collector shall be delivered to the Commissioner. The premium on each of such bonds shall be paid by the City.

Sec. 2-39. Care of books, vouchers, records, etc., information to City Mayor, Auditor, etc.

The Treasurer shall cause all books, papers, vouchers and documents under his care and belonging to the City to be deposited and kept as securely as the means furnished by the City shall permit and shall deliver over to his successor in office upon qualification all such papers, vouchers, books, documents and all other property appertaining to such office. He shall render such other services and furnish such information respecting the accounts, finances and payments of or to the City, as the Mayor, the City Council or the City Auditor may from time to time require.

Sec. 2-40. Duty to collect all taxes and other accounts due City.

The Treasurer shall proceed without delay to collect all accounts which may be delivered to him for collection by any officer or department of the City, and he shall faithfully and correctly account for all moneys received by him. In any case in which he is unable to obtain an immediate settlement of an account and where the subsequent settlement of an account and where the subsequent procedure is not definitely prescribed by statute or ordinance, he shall report the same to the City Solicitor for disposition.

The Collector of Taxes shall issue the tax bills as soon as possible after the tax lists and warrant are delivered to him by the assessors, and shall proceed to collect the same in accordance with the provisions of the statutes.

Sec. 2-40.1. Collection of taxes and accounts from licensees and permittees.

The Treasurer shall annually furnish to the City Council, and each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, or certificates of compliance or certificates of use and occupancy, including renewals and transfers, a list of any person, corporation or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

The licensing authority may deny, revoke or suspend any license or permit, or certificate of compliance or certificate of use and occupancy, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit or certificate of compliance or certificate of use and occupancy, and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by

any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Treasurer shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Treasurer that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, or certificate of compliance or certificate of use and occupancy, and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit or certificate of compliance or certificate of use and occupancy; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

The Mayor may waive such denial, suspension or revocation if he finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268 [G.L.] in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; bicycle permits; sales of articles for charitable purposes; children work permits; clubs, associations dispensing food or beverage licenses; dog licenses; fishing, hunting, trapping license; marriage licenses; theatrical events, public exhibition permits. (Ord. of 5-22-1990; Ord. of 6-14-1994; Ord. of 6-26-2001)

Sec 2-40.2. Payment agreements for tax title properties.

The City of North Adams authorizes payment agreements for property in tax title for periods up to five years and authorizes the waiver of interest up to 50% as defined in this section.

1. Eligible tax titles - The category or categories of tax titles eligible for payment plans are any commercial property, residential property, or industrial property in the City of North Adams.

2. Agreement term - a maximum term of five years.

3. Interest waiver - The treasurer may waive up to 50% of the interest that has accrued in the tax title account, but only if the taxpayer pays off the delinquency according to the terms of the agreement. No taxes or collection costs may be waived.

4. Initial payment - Taxpayers must pay at least 25 of the amount needed to redeem at the inception of the agreement, i.e., before any waiver, that applies upon payment in compliance with the agreement.

Treasurer's obligations.

1. Agreement - The treasurer must offer a payment agreement to every owner of a property in tax title that is within the category of eligible properties under the terms of this section. The treasurer cannot refuse to enter into agreements with eligible taxpayers. The agreement must be in writing and signed by the taxpayer(s) and treasurer. It must include the amount due upon execution and a schedule of remaining payments. It should also clearly state the consequences for failure to adhere to the agreement.

2. Foreclosure - The treasurer may not bring an action to foreclose a tax title subject to an agreement so long as (a) payments are being made in accordance with the schedule provided in the agreement and (b) no other charges constituting liens on the property become delinquent, i.e., the taxpayer is current on subsequently assessed taxes and charges. (Ord. of 10-23-2012)

Sec. 2-41. Depositing funds.

It shall be the duty of the treasurer to deposit from time to time all moneys which he shall receive for taxes, water rates, assessments and all other sources of revenue, including all moneys received from loans, fines, fees, claims, refunds and other sources which may be collected or paid into the treasury of the City, in a national bank or trust company located in the commonwealth, to the credit of the City, except as otherwise provided in sections 2-122 to 2-125 of these ordinances, which money shall remain on deposit until required to be withdrawn for the necessary and legal expenditures of the City.

Sec. 2-42. Payment of bills.

The treasurer shall pay no bill, payroll or demand unless endorsed with the approval of the City auditor and accompanied by the auditor's warrant for such payment, and he shall pay no draft drawn on the treasurer against any particular fund, or chargeable to any particular appropriation, for more than the balance remaining to the credit of such fund or appropriation. Whenever any appropriation is exhausted, the treasurer or the auditor shall give immediate notice thereof to the

mayor and the City Council.

Sec. 2-43. Perpetual care funds.

The treasurer shall receive and have the care and custody of all sums of money paid by persons for the perpetual care of lots in any of the City cemeteries, and shall give vouchers of the City therefor as provided by law.

Cross reference--Perpetual care, § 5-5.

Sec. 2-44. Service of legal process on treasurer.

Immediately upon the service upon the treasurer of any legal process in which the City may be interested, he shall forward such process to the City Solicitor.

Sec. 2-45. Deductions from salaries for credit unions.

The treasurer shall deduct from the salary of any employee of the City such amount as such employee, in a written authorization to such treasurer, may specify, for purchasing shares of, or making deposits in, or repaying any loans from, any credit union operated by the employees of the City. The City treasurer shall transmit the amounts so deducted under this section to the treasurer of such credit union for the purpose specified by the employee; provided that the treasurer is satisfied by such evidence as he may require, that the treasurer of the credit union has given bond as required by law for the faithful performance of his duties. Any such authorization executed may be withdrawn by the employees by filing a written notice of such withdrawal with the City treasurer, and a copy thereof with the treasurer of such credit union.

ARTICLE VII, . CITY AUDITOR

State Law reference--Auditors, G. L., C. 41, § 48 et seq.

Sec. 2-46. Election.

There shall be a City auditor appointed in accordance with the Charter.

Sec. 2-47. Duties generally.

He shall have charge of the accounts of the City and shall keep a set of books showing in detail the revenues and expenditures of the City. He shall examine all payrolls and bills or demands rendered against the City and all orders or votes of the City Council for the payment of money, shall see that they have been incurred with due authority, that they are properly approved by a person authorized thereto and that the clerical computations are correct. He shall see that vouchers are prepared in proper form and that the same are duly recorded and distributed to their proper account. If he approves of a bill, payroll or demand, he shall endorse it with his certificate of approval and shall cause an abstract of the same to be entered in a book kept for that purpose and shall forward it to the treasurer for payment. He shall from time to time audit the books and accounts of all of the departments, commissions, boards and offices of the City. He shall perform such other duties as the City Council by ordinance may from time to time prescribe.

Sec. 2-48. Approval of bills.

The City auditor shall not approve any payroll, bill or other voucher covering an expenditure of money, unless such payroll, bill or voucher shall be approved by the signature on such payroll, bill or voucher of the head of the department or of the majority of the board or commission having control of or incurring such expenditure.

Sec. 2-49. Statement of appropriations.

Commencing at the first meeting of April of each year and each month thereafter, the City auditor shall furnish the City Council with a statement showing the condition of each account, giving amount of appropriations, expenditures and unexpended balances under the same. (2-11-69)

Sec. 2-49.1. Statement of revenues.

The City auditor, using appropriate data provided by the City treasurer, shall provide the City Council and the mayor with a monthly statement showing the condition of all City revenues. This statement shall detail property tax receipts, personal property tax receipts, state receipts, and local estimated receipts by classification. (Ord. of 2-12-80)

Sec. 2-50. Assistant City auditor.

The office of assistant City auditor is hereby established. He shall be appointed by the auditor,

subject to confirmation by the City Council, shall give bond for the faithful performance of the duties of the office and shall hold office until his successor is appointed and qualified.

The assistant auditor shall assist the auditor in the performance of his duties and shall discharge the duties of the office when the auditor is absent or unable to act or when there is a vacancy in that office.

State law reference--Assistant auditors, G.L., C. 41, § 49A.

ARTICLES VIII-XII. RESERVED[EN(19)]

Art.	Secs.	Topic	Date of Derivation
VIII	2-51--2-55.1	Public works department	3-28-78
IX	2-56--2-60	City, engineer	----
x	2-61--2-66	Inspector of weights and measures	5-28-68;12-27-77
XI	2-67-2-70	Public buildings and building inspection department	12-12-67
XII	2-71--2-74	Veterans benefits departments	

Sec. 2-51-2-74. Reserved.

ARTICLE XIII, . BOARD OF ASSESSORS

State Law reference-Assessors, G. L, C. 41, § 24 et seq.

Sec. 2-75. Establishment; composition.

The Board of Assessors is hereby established and shall consist of three members; one member shall be a full-time member and the others part-time members, as designated by the Mayor. The part-time members shall be residents of the City. (Ord. of 10-26-2010)

Sec. 2-76. Appointment; terms; vacancy.

The mayor shall, in the month of January in each year, appoint a member of the board of assessors to serve for a term of three years, beginning with the first Monday in January next following his appointment and until his successor shall be duly appointed and qualified. If, for any reason, a vacancy occurs in the membership of the board of assessors, the vacancy shall be filled forthwith by the mayor for the unexpired term. The term of one member shall expire annually.

Sec. 2-77. Organization; quorum.

The Board of Assessors shall annually, as soon as may be after the beginning of the municipal year, meet and organize by choosing a Chairman and a Secretary from among their own number, and a majority of the Board shall constitute a quorum for the transaction of business.

Sec. 2-78. Duties generally.

The Assessors shall commence their duties in relation to the assessment of taxes on the first day of January in each year, or as soon thereafter as practicable. They shall visit the different estates in the several wards, take a list of the polls, estimate the value of personal property, appraise the real estate and obtain all needful information for the proper discharge of the duties of their office and shall perform such other duties as required by the laws of the commonwealth.

The Assessors shall, annually, complete the assessment of taxes and commit the same with the warrants to the Collector, as required by the laws of the commonwealth, and file a copy of the warrant with the City Auditor.

Sec. 2-79. Abatements.

Each year the Assessors shall keep a record of the abatements of taxes made by them, in a book provided for that purpose, and shall report a list of the same to the City Auditor and Collector of Taxes, monthly.

Article XIV. Planning Board.[EN(20)]

Sec. 2-80. Establishment; composition; term of office.

The Planning Board heretofore established in pursuance of General Laws, Chapter 41, Section 81A, shall continue in office and shall consist of nine members who shall be appointed by the Mayor for a term of five years each, commencing on the first day of February.

Commencing in 1967, one member shall be appointed whose term shall expire on the first day of February 1968; and, another member shall be appointed whose term shall expire on the first day of February 1969. (6-13-1967; 12-12-1967)

Sec. 2-81. Organization; assistants, etc.

The Planning Board shall annually, as soon after the first day of February, meet and organize by the election of a Chairman and a Clerk from its own number, and may employ and discharge experts and clerical and other assistants. It may appoint a custodian of its plans and records.

Sec. 2-82. Powers and duties.

The Planning Board shall have the power and authority and shall perform the duties prescribed by General Laws, Chapter 41, Section 81A et seq.

Sec. 2-82.1. Fee schedule.

Rezoning requests	$125.00
Site plan approval special permits, per application	125.00
Other special permits, per application	125.00
MGL 81-P plans not requiring approval (Form A subdivisions)	75.00
Preliminary subdivision plan	100.00
Definitive subdivision plan	500.00
Application under Subdivision Control Law	75.00

(Ord. of 8-28-1984; Ord. of 7-9-1991; Ord. of 11-14-2000; Ord. of 6-10-2003)

ARTICLE XV, . CENTENNIAL COMMITTEE.EN(21)

Sec. 2-83. Establishment.

A Centennial Committee is hereby established and shall consist of seven members. This Committee shall remain in existence until January 1, 1996. (Ord. of 12-14-1993)

Sec. 2-84. Appointment; terms of office; compensation.

The Mayor shall appoint all members during the month of December 1993, to serve until January 1, 1996. Thereafter, if a member resigns, the Mayor shall appoint a successor to fill the unexpired term. Such members shall serve without compensation. (Ord. of 12-14-1993)

Sec. 2-85. Officers; quorum; rules and regulations.

The Committee shall annually meet in the month of December and organize by choosing a Chairman and Secretary from among their own number, and a majority of the Committee shall constitute a quorum for the transaction of business. (Ord. of 12-14-1993)

Sec. 2-86. Jurisdiction; powers and duties generally.

(a) It shall be the duty of the Committee to plan and coordinate all activities related to the City of North Adams' Centennial celebration.

(b) The Committee shall serve in an advisory capacity to the Mayor. (Ord. of 12-14-1993)

Sec. 2-86.1. Annual Report.

The Committee shall make an annual report to the Mayor. (Ord. of 12-14-1993)

ARTICLE XVI, . BOARD OF APPEALS. BEGIN CROSSNOTEState law reference - Board of Appeals, MGL C. 40A, §§ 12 - 15.END CROSSNOTE

Sec. 2-87. Appointment, composition and term of office.

There shall be a Board of Appeals consisting of five members who shall be citizens of the City. The Mayor shall appoint the members of such Board. Their terms shall be five years in length and so arranged that the term of one member shall expire each year on the first day of January. (12-12-1967)

Sec. 2-88. Associate members.

The Mayor shall also appoint two associate members of the Board of Appeals. The associate members shall be citizens of the City and shall each serve for the term of five years. An associate member, designated by the Chairman, shall serve as a member of the Board only when a regular member of the Board shall, after written request to the Chairman, be excused from serving by reason of personal interest, illness, absence or inability to act. (2-11-1975)

Sec. 2-89. Vacancies.

Vacancies shall be filled for the unexpired terms in the same manner as in the case of original appointments.

Sec. 2-90. Officers.

The Board shall annually elect a Chairman and Secretary from its own members.

Sec. 2-91. Powers and duties generally.

The Board of Appeals shall have the powers and duties conferred by General Laws, Chapter 40A, Section 15.

Sec. 2-92. Rules.

The board of appeals shall adopt rules, not inconsistent with the provisions of the Revised Ordinances, for conducting its business. Meetings of the board shall be held at the call of the Chairman, and also when called in such other manner as may be provided for in its rules. Such Chairman, or in his absence the acting Chairman, may administer oaths, summon witnesses and call for the production of papers needed by the board in the determination of any appeal pending before it. All hearings shall be open to the public. The board shall cause to be made a detailed record of its proceedings showing the vote of each member upon each question, the absence of

any member or the failure of any member to vote, the reasons for its decisions and other official actions and shall cause a copy of the same to be filed in the office of the City clerk within ten days after the hearing. Notice of decision shall be mailed forthwith to the parties in interest. When filed with the City clerk the record of the board shall be open to examination by the public.

Sec. 2-93. Time for appeal.

A person whose application for a permit has been refused by the building inspector or a person against whom the inspector decides with reference to nonconforming use may appeal to the board within fifteen days thereafter. A person who his been ordered by the inspector to incur expense, as provided in sections 3-23 and 3-27, 23 and 57 of chapter 14 of these ordinances may so appeal therefrom within fifteen days of the date of such order, and such appeal shall operate to stay such order pending determination of the appeal, except that, in case of a building or structure which, in the (opinion of the building inspector, is unsafe or dangerous, the inspector may in his order limit the time for such appeal to a shorter period.

Sec. 2-94. Filing appeal.

The appeals provided for in this article shall be filed in writing with the building inspector or with the board and shall specify the grounds thereof. The building inspector shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

Sec. 2-95. Hearing.

The board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give public notice thereof in the local newspaper and also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the board to be affected thereby, as they appear on the most recent local tax list, and decide the same within a reasonable time. At the hearing any party may appear in person or be represented by an attorney or agent.

Sec. 2-96. Decisions on variations.

Whenever a variation from the provisions of these Revised Ordinance is voted by the board, a copy of the decision specifying the variation and the reasons therefor shall be filed in the office of the City engineer and building inspector within ten days after the hearing. If the order or refusal is modified or annulled, the building inspector shall issue a permit in accordance with such decision. No decision of the board of appeals shall be regarded as establishing a precedent.

See. 2-97. Subdivision control.

The board of appeals herein shall also serve as the board of appeals under the provisions of General Laws, chapter 41, section 81Z.

See. 2-98. Reports and recommendations.

It shall be the duty of the board of appeals to submit to the mayor on or before the first day of February its annual report giving a summary of all decisions of the board for the preceding fiscal year of the City, together with such recommendations as may seem to them advisable after consultation with the planning board.

Article XVII. Board of Health[EN(22)]

Sec. 2-99. Appointment and term of office.

There shall be a board of health which shall consist of three members appointed in accordance with the provisions of General

Law, Chapter 111, Section 26. The term of office of members of the Board of Health shall be three years. The term of one member shall expire annually.

Sec. 2-100. Organization; quorum.

The Board of Health shall annually, as soon after the first Monday of February (as practical), meet and organize by the choice of a Chairman and of a Clerk who may not be a member of the Board; it may make such rules and regulations for its own government and the government of all subordinate officers in the department as it may deem expedient. A majority of the Board shall constitute a quorum.

Sec. 2-101. Records.

A full and complete record shall be kept of all votes and acts of the Board and all expenditures of public money which may at any time be examined by the Mayor.

Sec. 2-102. Powers and duties.

The Board of Health may exercise all the powers vested in the Board of Health under the law or prescribed to it by law and shall perform such duties as the City Council by ordinance may from time to time prescribe. The Board of Health may make reasonable health regulations not inconsistent with law. Whoever violates any reasonable regulation of the Board of Health made under the authority of this section, for which no penalty by way of fine or imprisonment or both, is provided by law, shall be punished by a fine of not more than $1,000.[EN(23)] (Ord. of 2-26-2002)

Sec. 2-102.1. Director of Health-Sanitarian.

There shall be a Director of Health-Sanitarian, who shall be appointed by the Mayor for a five-year term. Said Director of Health-Sanitarian shall be compensated according to the compensation plan. The Director of Health-Sanitarian shall act as the agent for the Board of Health and shall perform such duties and have such powers as the Board of Health shall direct. Said Director of Health-Sanitarian shall not be subject to the provisions of Chapter 31 of the General Laws. (Ord. of 11-27-1984)

Sec. 2-102.1a. Reserved.[EN(24)]

Sec. 2-102.2. License and permit fees.

The Board of Health shall exact from each applicant for a license or permit it is empowered and authorized to issue the sum of $1 upon the filing of the application therefor; except, that such other fee or no fee as may be otherwise provided by statute, these Revised Ordinances or other ordinances of the City, shall not be in any way affected or controlled by this section.

All fees for licenses and permits issued by the Board of Health shall be paid to the City Treasury. (4-12-1966)

Article XVIII. Reserved[EN(25)]

Secs. 2-103--2-107. Reserved.

Article XIX. Airport Commission[EN(26)]

Sec. 2-108. Establishment; composition; qualification.

The Airport Commission is hereby established, and shall consist of five members who shall be residents of the City.

Sec. 2-109. Appointment; terms.

The Mayor shall, in the month of February, appoint a member or members, of the airport commission to serve for a period of three years, beginning on the first day of March following his or their appointment until his or their successor shall be duly appointed and qualified. When the commission is first established under section 2-108, the members of the commission, under this section, shall be appointed for terms of such length and so arranged that the term of one member will expire in 1964; the terms of two members will expire in 1965; and, the terms of the remaining two members will expire in 1966; and their successor or successors shall be appointed for a term of three years. (12-12-67)

State law reference-See G.L. C. 90, § 51E.

Sec. 2-110. Organization; quorum; rules and regulations.

The members of the airport commission shall annually choose one of their members as Chairman, vice-Chairman and secretary. A majority of the commission shall constitute a quorum for the transaction of business. The commission may make rules and regulations for its own government and in relation to its officers as it may deem expedient and proper.

Sec. 2-111. Jurisdiction.

The airport commission shall have under its control and jurisdiction, North Adams Airport also known as Harriman Airport and any land in extension thereof hereafter acquired; and, any other land or lands hereafter acquired for airport purposes.

See. 2-112. Powers and duties generally.

(a) *Leasing property.* The airport commission may let or lease any airport or airports under its jurisdiction or any part thereof, for a period not to exceed 20 years. Any lease that

exceeds 20 years must have the approval of the Mayor and City Council to be effective.

(b) *Acquisition of land.* The commission, whenever appropriation has been made therefor, may take property by eminent domain under General Laws, Chapter 79 or 80A, or may acquire property by purchase, lease or otherwise, both within or without the City's territorial limits for airport purposes, or acquire such easements in airport hazards outside the boundaries of an airport or airport site as may be necessary for the removal or the prevention of the establishment of any airport hazard.

(c) *Entering private land.* For the purpose of making surveys or examinations relating to any proposed taking by eminent domain, such commission or its authorized agent may make reasonable entry upon land.

(d) *Rental contracts.* The commission shall determine the charges of rentals for the use of any properties, facilities, installations, landing fees, concessions, uses and services and shall determine the terms and conditions under which contracts may be executed by the commission on behalf of the City.

(e) *Expenditure of funds.* The commission is hereby authorized to expend any funds granted to or received from any source or appropriated by the City for airport purposes.

(f) *Contracts for construction, improvement, etc., of airports*. The commission may make contracts for the maintenance, operation, construction, enlargement and improvement of the airport or airports under its jurisdiction pursuant to the laws of the Commonwealth and the City Charter governing the making of like contracts, excepting that if federal moneys are used in financing any maintenance, operations, construction, enlargements or improvements, the commission may act in the manner prescribed by federal authority acting under the law of the United States and any rules or regulations made thereunder, notwithstanding any other law of the commonwealth or charter to the contrary.

(g) *Airport rules and regulations.* Subject to approval by the Massachusetts Aeronautics Commission, the commission may adopt rules and regulations for the use of municipal airports or for the safety of the public upon or beyond the limits of the airport under its control, whether such airport facilities are within or without territorial limits of the City.

(h) *Airport approach regulations.* The commission shall serve as administrative agency under section 40E of chapter 90 of the General Laws if the City Council adopt airport approach regulations under section 40A et seq. of chapter 90 of the General Laws.

Sec. 2-113. Airport manager, other employees.[EN(27)]

The airport commission may appoint an airport manager who shall be qualified by general management experience and aeronautical knowledge, and he shall be the executive officer of the commission. The commission may also appoint an assistant airport manager who shall be

qualified as aforesaid. Subject to appropriation by the City Council, the commission may appoint such other officers and employees as its work may require and shall fix salaries of all officers and employees appointed or employed by it.

Article XX. Tree Commission.[EN(28)]

Sec. 2-114. Establishment; appointment; composition; terms of office, compensation.

A tree commission is hereby established and shall consist of eight members, who shall be residents of the City. The Mayor shall appoint the members of the commission, one member of which shall be designated by the Mayor as Chairman. Their terms shall be three years in length, and so arranged that the terms of at least two members shall expire each year on the first day of January. Such members shall serve without compensation. (12-12-67)

Sec. 2-115. Meetings.

The tree commission shall meet as frequently and at such times and places in the City, as may be necessary for the proper exercise of its powers and duties.

Sec. 2-116. Powers and duties.

The tree commission shall have general supervision of all ornamental and shade tree planting on lands owned by the City, and on land adjacent to public ways in the City, and also to study, investigate and authorize the setting out, care, maintenance, preservation and removal of ornamental and shade trees, shrubs and plants, except the planting, woodcutting and reforestation on the watersheds owned by the City.

See. 2-117. Records and report.

The tree commission shall keep a detailed record of its acts and proceedings and shall make an annual report to the Mayor in connection with such record.

ARTICLE XXI, . Conservation Commission.[EN(29)]

Sec. 2-118. Establishment, composition and qualification.

A conservation commission is hereby established and shall consist of seven members, who shall be residents of the City. (1-8-74)

Sec. 2-119. Appointments; terms of office.

The present members of the conservation commission shall serve until the appointment and qualification of their successors. After the effective date of this section the Mayor shall appoint one additional member to serve until August 1, 1974; one additional member to serve until August 1, 1975, and two additional members to serve until August 1, 1976. In July of each year the Mayor shall appoint such number of members as may be necessary to fill the vacancies occurring in August and such appointments shall be effective on August 1, and shall be for three year terms and until the appointment and qualification of their successors. (1-8-74)

Sec. 2-120. Organization; quorum.

The conservation commission shall annually in the month of August meet and organize by choosing a Chairman and Clerk from among their own number. A majority of the commission shall constitute a quorum for the transaction of business.

Sec 2-121. Duties[EN(30)]

The conservation commission shall promote and develop the natural resources and shall protect the watershed resources of the City. It shall conduct researches into local land areas and shall seek to coordinate the activities of unofficial bodies organized for similar purposes. It may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its work. It shall keep an index of all open areas within the City with the plan of obtaining information pertinent to proper utilization of such open areas, including land owned by the Commonwealth and the City. It shall keep an index of all open marshlands, swamps and all other wet lands in like manner. It may recommend to the City Council, to the department of natural resources and to the state reclamation Board a program for the better promotion, development or utilization of all such areas, It shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual City report if requested by the Mayor.

Article XXII. Capital Outlay Program.

Sec. 2-122. Definitions.

As used in this article, the terms "capital improvement", "capital outlay" or "project," shall mean: (a) Any physical public betterment or improvement or any preliminary studies or surveys relative thereto: (b) the acquisition of property of a permanent nature; and (c) the purchase of equipment for any public betterment or improvement when first erected or acquired.

Sec. 2-123. Submission by Mayor to council.

The Mayor shall annually submit to the City Council, together with the general budget submitted by him as required by General Laws, chapter 44, section 32, a six year program of capital improvements to be undertaken by the City, together with the estimated costs of carrying out such program. The estimated costs of the project or projects to be undertaken during the first year of such period, and the portion required from revenue funds to become eligible for borrowing, shall be included in the budget according to type of projects and pursuant to sections 7 and 8 of chapter 44 of the General Laws.

Sec. 2-124. Certain officers, etc., to assist Mayor in preparation, etc.; referral to planning Board.

The auditor, treasurer, Board of assessors and members of the finance committee of the City Council shall assist the Mayor in the preparation and development of such program under his direction and in accordance with such fiscal policies as from time to time may be determined by him. Such program shall be referred under General Laws, chapter 41, section 81E to the planning Board of the City for its investigation, report and recommendation prior to submission, under section 2-123.

See. 2-125. Separate tabulation of specified items.

The capital outlay program, as submitted by the Mayor, shall be tabulated separately is to amounts, cost per year until complete liquidation of debt and interest charges.

Article XXIII. Disposal of Personal Property

Sec. 2-126. Power to sell generally.

The Mayor shall have power to sell any personal property belonging to the City which in his judgment is not necessary for the proper conduct of its business, subject to the restrictions hereinafter set forth.

Sec. 2-127. Sale when value does not exceed $1,000.

If the fair market value of any item or items of property sought to be disposed of by sale under this article does not exceed $1,000, the Mayor may sell the same at private sale without competitive bidding. In such event, the terms of such sale shall be cash, payable to the City Treasurer; and the Mayor shall at the time of the sale furnish to the City Treasurer an itemized list and statement of the transaction, including therein the date of the purchase or acquisition of the property by the City, the cost price to the City thereof, the name of the purchaser and the amount paid therefor by the purchaser. Such reports shall be open to public inspection. (Ord. of 8-28-2001)

Sec. 2-128. Sale when value exceeds $1,000.

In the event that the fair market value of any item or items of property sought to be disposed of by sale under this article exceeds $1,000, the Mayor shall advertise publicly for bids therefor in a daily newspaper published in the City and shall thereafter either sell the same to the highest bidder or refuse all bids. Each such bid shall be accompanied by a certified check payable to the order of the City Treasurer in the amount of such bid, which such check shall be returned to the bidder in the event that his bid is not accepted. No sale of such property shall be valid unless the provisions of this section are complied with; however, the City Council may, for adequate cause and upon the request of the Mayor, waive the requirements of this section in any particular case. (Ord. of 8-28-2001)

Article XXIII-A. Disposal of Property to Governmental Entities

Sec. 2-128A. Sale of property to governmental entities--Generally.

The City Council, by a vote of two-thirds of all of its members, may authorize a conveyance or transfer of unencumbered City property owned by it in its private or proprietary capacity, real or personal, to the United States, the commonwealth or any other governmental entity for any public purpose, regardless of the method or means by which same was acquired by the City, with or without monetary consideration, as it deems to be in the best interests of such City. (6-13-1967)

Sec. 2-128A1. Same--Procedure.

An order shall be presented to the City Council authorizing and empowering the Mayor to execute and deliver an appropriate instrument conveying or transferring title to the property involved to the United States, the commonwealth or any other governmental entity with an exact copy thereof attached to such order and incorporated therein by reference. (6-13-1967)

Article XXIII-B. Disposal of Real Estate

Sec. 2-128B. Procedure.

The Mayor shall seek authorization of the City Council pursuant to General Laws, Chapter 40, Section 3 to sell or dispose of any real estate owned by the City of North Adams. No order authorizing the sale or disposition of real estate shall be passed finally on the date on which it is introduced, except in cases of special emergency involving the health or safety of the people or their property as declared in a preamble thereto separately voted on and receiving the affirmative vote of 2/3 of the members of the City Council. Every such order, except emergency orders as hereinbefore defined, shall be published once in full in a local newspaper with a daily circulation, prior to final passage by the City Council. Written notice of intent to sell or dispose of such real estate shall be given to the owners of real estate directly abutting and/or within a one-hundred-foot radius of the real estate to be sold or disposed of prior to the Mayor seeking authorization of the City Council, except in cases of emergency as hereinbefore defined. (Ord. of 8-8-1978; Ord. of 9-13-1983; Ord. of 10-27-1987; Ord. of 8-26-1997)

Article XXIV. Council for the Aging

Sec. 2-129. Created.

The City of North Adams Council for the Aging is established in accordance with the

provisions of Section 8B of Chapter 40 of the General Laws.

Sec. 2-130. Composition.

The City of North Adams, Council for the Aging shall consist of 11 permanent members to be appointed by the Mayor for terms of five years from the first Monday of January and until their successors are appointed. The present members of such Council for the Aging shall continue until the expiration of the terms for which they were appointed. The six new members authorized by this section may be appointed immediately and two of such new members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. As the terms of the members of the Council expire, their successors shall be appointed for five-year terms. In addition to the 11 permanent members, there shall be as many associate members as shall be deemed expedient for carrying out the aims and purposes of the Council for the Aging. The members of the Council shall serve without compensation and shall be residents of the City. (12-12-1967; 3-26-1974)

Sec. 2-131. Powers and duties.

As soon as possible after the members of the Council for the Aging have been qualified, they shall organize by choice of one of them to serve as Chairman, and, thereafter, shall organize annually before the first Monday in February.

The Council for the Aging shall act in an advisory and consultive capacity with the general object of coordinating with all departments and state agencies programs designed to meet the problems of the aging and may promote, assist and coordinate activities designed to meet such problems on the local level. Subject to appropriation by the Mayor and City Council, it may make such expenditures as may be necessary to execute effectively the functions of the Council.

Article XXV. Industrial Development Financing Authority

Sec. 2-132. Establishment.

(a) The North Adams City Council declares that an industrial development financing authority is needed in the City of North Adams, Massachusetts, and that unemployment or the threat thereof exists in the City of North Adams and that unemployment or the threat thereof can be alleviated or the security against future unemployment and lack of business opportunity can be provided by attracting new industry to the City or substantially expanding industry existing in the City through an industrial development

project or projects financed under Massachusetts General Laws, Chapter 40D (Chapter 772 of the Acts of 1967), as amended. The City Council determines that there is a need for such an authority, and, in making this determination, the City Council has taken into consideration the City's ability to adjust to any expected increase in the demand for municipal facilities and services as a result of the expected increase in employment and business activity from such industrial development.

(b) The City Clerk is hereby directed to file a certified copy of the within ordinance, together with the names of the duly appointed and qualified original directors with the State Industrial Finance Board, the Department of Commerce and Development and the Secretary of State of the Commonwealth of Massachusetts.

(c) The City of North Adams respectfully requests a certificate of organization which certificate shall be conclusive evidence of the lawful establishment of the industrial development financing authority of the City of North Adams and the directors thereof. (6-26-73)

ARTICLE XXVI, . HUMAN SERVICES COMMISSION

Sec. 2-133. Establishment; composition; qualification; compensation.

The human services commission is hereby established and shall consist of seven members who shall be residents of the City. Such members shall serve without compensation. Specifically excluded from serving on the commission are salaried staff members of human-service-providing agencies. (Ord. of 2-28-78)

Sec.. 2-134. Appointment; terms; vacancy.

The Mayor shall appoint the members of the commission with the consent of the council, one member of which shall be designated by the Mayor as chairperson. In the first year the Mayor shall appoint three members to one-year terms, two members to two-year terms, and two members to three-year terms. All subsequent terms shall be three years in length and so arranged that the terms of not more than three members shall expire each year on the first day of February. If, for any reason, a vacancy occurs in the membership of the commission, the vacancy shall be filled forthwith by the Mayor with council approval for the unexpired term. (Ord. of 2-28-78)

See. 2-135. Organization; quorum.

Beginning in February, 1979, and every year thereafter, the commission shall elect the

chairperson from among their own number. The chairperson shall, annually, appoint a member to serve as secretary. If the secretary is absent from a meeting, the chairperson shall designate another member to function as secretary for that meeting. If the chairperson is absent from a meeting, the secretary shall assume the chair. If both the chairperson and the secretary are absent, the member with the most seniority on the commission shall assume the chair. A majority of the commission shall constitute a quorum for the transaction of business. (Ord. of 2-28-78)

Sec. 2-136. Meetings; rules.

The human services commission shall meet at such times as may be necessary for the proper exercise of its powers and duties. Special meetings may be called by the chairperson, provided that forty-eight-hour notice is given the other commissioners either in writing or by telephone contact. The chairperson is responsible for setting the agenda for each regular and special meeting.

An affirmative vote of four members is required for any motion to pass. The chairperson may limit debate among members of the commission and may limit presentations, from interested parties and guests, provided that he/she does so prior to the beginning of the debate and/or presentation, and provided that a minimum of 10 minutes be given each side debating or presenting an issue. The commission may make such additional rules and regulations for its own government and in relation to its, officers and members as it may deem expedient and proper. On all matters of parliamentary procedure not provided for in these rules or by law or ordinance, Robert's Rules of Order shall govern. (Ord. of 2-28-78; Ord. of 10-14-80)

Sec. 2-137. Powers and duties.

The human services commission may exercise all the powers vested in the human services commission under the law or prescribed to it by law and shall perform such duties as the City Council by ordinance may from time to time prescribe. The human services commission shall analyze, evaluate and set priorities for all requests laid before it for aid and/or services to the various human services agencies in North Adams and such other human services agencies as the commission may determine to be within its jurisdiction. It is the duty of the human services commission to encourage the effective and efficient operation of human services agencies within its jurisdiction.

The human services commission shall assist in coordinating the services of the various providing agencies, assist in eliminating the duplication of services, and act as a source of guidance, as needed, to said provider agencies in the procurement of appropriate state and federal grants.

The human services commission is empowered to conduct investigations, surveys and analytical studies of human services agencies in order to determine their efficacy and efficiency. The

commission is authorized to demand such reports and information from said agencies as the commission may deem necessary for the proper analysis and evaluation of said agencies' requests for aid and/or services. The names of individuals receiving aid or services from human services agencies are not to be among the types of information required from human services agencies when the commission is gathering data for its analytical and evaluative process.

Each human service agency at the time it enters its application seeking funds from the City of North Adams, may it be for a partial fiscal year, an entire fiscal year, or a one-time request, shall submit no less than the following:

(a) A balance sheet and/or financial position statement of the current fiscal year or period including the total amount appropriated to the agency delineated by the various funding sources, a line-item breakdown of the agency budget, and an accrual of expenditures to the last prior month-end at the time of the application submission.

(b) A copy of the closed-out budget and/or balance sheet. of the immediate prior fiscal year or period.

(c) A pro forma budget with line-item entries of the ensuing fiscal year or period for which funds are being sought.

Upon completion of their review, the human services commission shall make recommendations for any appropriations for human services agencies to the Mayor.

In order to facilitate timely and equitable review of funding requests, human services agencies must submit such requests by May 1 of each fiscal year. The human services commission shall then submit their recommendations to the Mayor by June 1 of each fiscal year and the Mayor shall then, if he is inclined to so submit, submit appropriating orders to the City Council by July 1 of each fiscal year.

The human services commission may make contracts, subject to the approval of the Mayor and City Council, with such human service agencies as it may determine to be within its jurisdiction pursuant to the laws of the commonwealth and the City Charter governing the making of like contracts, except that if federal moneys are used in, financing said agencies, the commission may act in the manner prescribed by federal authority acting under the laws of the United States and any rules or regulations made thereunder, notwithstanding any other law of the commonwealth or Charter to the contrary. (Ord. of 2-28-78; Ord. of 9-9-80; Ord. of 10-14-80)

Sec. 2-138. Public hearings.

The human services commission shall, from time to time, conduct public hearings in order to ascertain the human services needs of the community. Representatives of existing human services agencies will not be allowed to address the commission at this time as they have standing access to the commission through the agenda process of the commission. Interested

individuals may voice their opinions and/or present documentation to the commission at such public hearings regarding the community's human services needs and priorities provided that a maximum of five minutes be allotted for each individual. The time and need of such public hearings shall be determined by the chairperson. (Ord. of 2-28-78)

Sec. 2-139. Records and annual report.

The human services commission shall keep a detailed record of its acts and proceedings and shall make an annual report to the Mayor in connection with such record. (Ord. of 2-28-78)

ARTICLE XXVII, . HISTORICAL COMMISSION

Cross reference--Historic Valley Park commission, Ch. 15A.

See. 2-140. Establishment; composition; qualification; compensation.

The historical commission is hereby established and shall consist of seven members who shall be residents of the City. Such members shall serve without compensation. (Ord. of 9-11-79)

Sec. 2-141. Appointment; terms; vacancy.

The Mayor shall appoint the members of the commission with the consent of the council, one member of which shall be designated by the Mayor as chairperson. In the first year the Mayor shall appoint three members to one-year terms, two members to two-year terms, and two members to three-year terms. All subsequent terms shall be three years in length and so arranged that the terms of not more than three members shall expire each year on the second day of January. If, for any reason, a vacancy occurs in the membership of the commission, the vacancy shall be filled forthwith by the Mayor, with council approval, for the unexpired term. (Ord. of 9-11-79)

Sec. 2-142. Organization; quorum.

Beginning in January, 1980, and every year thereafter, the commission shall elect the chairperson from among their own number. The chairperson shall, annually, appoint a member to serve as secretary. If the secretary is absent from a meeting, the chairperson shall designate another member to function as secretary for that meeting. If the chairperson is absent from a

meeting, the secretary shall assume the chair. If both the chairperson and the secretary are absent, the member with the most seniority on the commission shall assume the chair. A majority of the commission shall constitute a quorum for the transaction of business. (Ord. of 9-11-79)

See. 2-143. Meetings; rules.

The historical commission shall meet once a month at a day and time to be determined by the commission at its first meeting each January and at such other times as may be necessary for the proper exercise of its powers and duties. Special meetings may be called by the chairperson, provided that forty-eight-hour notice is given the other commissioners either in writing or by telephone contact. The chairperson is responsible for setting the agenda for each regular and special meeting. An affirmative vote of four members is required for any motion to pass. The chairperson may limit debate among members of the commission and may limit presentations from interested parties and guests, provided that he does so prior to the beginning of the debate and/or presentation, and provided that a minimum of 10 minutes be given each side debating or presenting an issue. The commission may make such additional rules and regulations for its own government and in relation to its officers and members as it may deem expedient and proper. On all matters of parliamentary procedures not provided for in these rules or by law or ordinance, Robert's Rules of Order shall govern. (Ord. of 9-11-79)

Sec. 2-144. Powers and duties.

The historical commission may, upon execution by the City's chief executive, exercise all the powers vested in the historical commission under the law (Massachusetts General Laws, Chapter 40, Section 8D), or prescribed to it by law and shall perform such duties as the City Council by ordinance may from time to time prescribe. Such commission shall conduct research for places of historic or archaeological value (compiling and maintaining an inventory of the historic assets in the community), shall cooperate with the state archaeologist in conducting such research or other surveys, and shall seek to coordinate the activities of unofficial bodies organized for similar purposes. The commission shall follow usual City budget and appropriation procedures to request adequate funds to carry out its work and may utilize these monies to advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it deems necessary for its work. For the purpose of protecting and preserving such places, it may make such recommendations as it deems necessary and proper to the City Council and, subject to the approval of the City Council, to the Massachusetts Historical Commission, that any such place be certified as a historical or archaeological landmark.

The commission may hold hearings; upon execution by the City's chief executive, may enter into contracts with individuals, organizations and institutions for services furthering the objectives of the commission's program; may enter into contracts with local or regional associations for cooperative endeavors furthering the commission's program; may accept gifts,

contributions and bequests of funds from individuals, foundations and from federal, state and other governmental bodies for the purpose of furthering the commission's program; may make and sign any agreements and may do and perform any and all acts which may be necessary or desirable to carry out the purposes of this section. It shall keep accurate records of its meetings and actions and shall file an annual report. Said commission, with prior approval of a two-thirds majority of all members of the City Council, may acquire in the name of the City by gift, purchase, grant, bequests, devise, lease or otherwise the fee or lesser interest in real or personal property of significant historical value and may manage the same.

The commission may suggest, under the provisions of Massachusetts General Laws, Chapter 40C, the appointment of an historic district study committee by the City Council. The historic district study committee would study the feasibility of creating historic districts in the City and determine boundaries for said districts.

The commission may prepare, or cause to be prepared, a preservation plan outlining its policies and goals and recommending actions to accomplish said objectives. (Ord. of 9-11-79)

Sec. 2-145. Public hearings.

The historical commission shall, from time to time, conduct public hearings in order to ascertain the preservation needs of the community. Interested individuals may voice their opinions and/or present documentation to the commission at such public hearings regarding the community's historical sites provided that a maximum of five minutes be allotted for each individual. The time and need of such public hearings shall be determined by the chairperson. (Ord. of 9-11-79)

Sec. 2-146. Records and annual report.

The historical commission shall keep a detailed record of its acts and proceedings and shall make an annual report to the Mayor in connection with such record. (Ord. of 9-11-79)

ARTICLE XXVIII, . OFFICE OF COMMUNITY DEVELOPMENT

Sec. 2-147. Establishment; duties.

There is hereby established, within the office of the Mayor, an office of community development.

The duties of the office, while not expressly limited hereto, shall include the following

responsibilities:

(a) To coordinate the activities of and provide technical assistance to the various City authorities, departments, commissions, and agencies whose actions affect the community development efforts of the city;

(b) To develop, apply for, and administer federal, state and other grant programs in furtherance of community development objectives and to seek authorization from the City Council to submit grant applications 30 calendar days prior to their respective submission dates, with exceptions specifically approved by the City Council;

(c) To act as representative of the Mayor, at the Mayor's direction, or to work under the authority and direction of the Mayor with federal, state and local organizations in any community development or other related projects which have been authorized to be undertaken by and within the City;

(d) To compile, analyze and interpret information and data pertaining to short-term and long-term municipal planning needs, including desirable patterns for land use within the City; to initiate and conduct studies of the City's short-term and long-term community development needs and of the resources available to fulfill those needs; to prepare plans and to design programs appropriate to the City's overall community development activities in such areas as housing, economic and human services development, public works, public facilities, transportation, neighborhood revitalization, and related functions; and to make such information available to federal and state agencies and to the general public;

(e) To coordinate the City's community development activities with local and regional and other private and public organizations whose functions and activities contribute toward the fulfillment of the City's community development objectives; to provide appropriate technical assistance to such organizations;

(f) To prepare and submit annually to the Mayor and City Council a detailed program of community development for the City of North Adams. Such plan will identify the short-range and long-range objectives of the City in the areas of housing, human services, economic development and job creation, commercial and industrial development, development of the central business district and others;

(g) To provide the Mayor and City Council with information on the attainment of community development objectives, status of community development expenditures, and program performance as from time to time directed;

(h) To coordinate and cooperate with all City agencies and Boards, when appropriate or necessary, and relevant. (Ord. of 6-10-80)

See. 2-147.1. Director.

There shall be a director of the office of community development who shall be appointed by the Mayor and who may be removed by the Mayor.

The director shall be appointed. expeditiously and the position advertised widely to obtain the best qualified candidate. The position of director created under this section shall not be subject to the provisions of Chapter 31 of the General Laws or the provisions by Section 9A of Chapter 30 of the General Laws. The director, subject to the Mayor, shall have full charge and supervision of the work of the office and its personnel, and exercise such other duties, powers, and functions as may be authorized by the Mayor. All City agencies, departments, authorities, and subgrantees shall coordinate with the community development director with respect to all activities which are related to the community development efforts, plans or objectives of the City. (Ord. of 6-10-80)

Sec. 2-147.2. Planning coordinator.

There shall be a planning coordinator within the office of community development who shall be appointed by the Mayor and who shall serve for a term of three years. The coordinator shall be appointed expeditiously and the position advertised widely to obtain the best qualified candidate. This position shall not be subject to the provisions of Chapter 31 of the General Laws or the provisions of Section 9A of Chapter 30 of the General Laws.

The planning coordinator shall work under the direction of the community development director and shall provide technical assistance to City authorities, departments, commissions and agencies as well as private organizations, as assigned by the community development director. The planning coordinator shall assist in planning the community development program and perform such other tasks as are directed by the community development director. (Ord. of 6-10-80)

Sec. 2-147.3. Compensation; additional staffing.

The community development director and all full-time employees necessary to discharge the duties of the office of community development shall receive such compensation as shall be fixed by the Mayor, with the approval of the City Council.

From time to time the community development director, with approval of, the Mayor, may engage the services of such additional part-time employees, consultants, architects, planners and engineers as are required to perform the functions of the office. (Ord. of 6-10-80; Ord. of 3-22-88)

Sec. 2-147.4. Economic Development Director.

(a) There shall be an Economic Development Director, who shall be appointed by the Mayor, who may be removed by the Mayor, and who shall report to the Mayor.

(b) The Director shall be appointed expeditiously and the position advertised widely to obtain the best qualified candidate. The position of Director created under this section shall not be subject to the provisions of Chapter 31 of the General Laws or the provisions of Section 9A of Chapter 30 of the General Laws. The Director, subject to the Mayor, shall be responsible for all economic development, industrial development and commercial development activities within the City. He shall work in conjunction with the Director of the Office of Community Development to develop and implement long-range economic development plans and policies for the City, including effective marketing strategies for the City's industrial and commercial properties. He shall maintain an effective and current dialogue with the local banking community, the local business community and appropriate federal, state and local officials. He shall work in concert with any regional development entity to promote the development of the Northern Berkshire community. (Ord. of 3-22-1983)

Sec. 2-148. Reserved.[EN(31)]

ARTICLE XXIX, . NORTH ADAMS COMMISSION ON DISABILITIES.

Sec. 2-149. Establishment; composition; qualifications; compensation.

The North Adams Commission on Disabilities is hereby established and shall consist of seven members who shall be residents of the City. Such members shall serve without compensation. (Ord. of 11-9-1982; Ord. of 10-22-1991; Ord. of 8-24-2010)

Sec. 2-150. Appointment; terms; vacancy.

The Mayor shall appoint the members of the Commission with the consent of the Council, one member of which shall be designated by the Mayor as Chairperson. In the first year the Mayor shall appoint three members to one-year terms, two members to two-year terms and two members to three-year terms. All subsequent terms shall be three years in length and so arranged that the terms of not more than three members shall expire each year on the first day of December. If for any reason a vacancy occurs in the membership of the Commission, the vacancy

shall be filled forthwith by the Mayor with Council approval for the unexpired term. (Ord. of 11-9-1982)

Sec. 2-151. Organization; quorum.

Beginning in December 1983, and every year thereafter, the Commission shall elect the Chairperson from among its own number. The Chairperson shall annually appoint a member to serve as Secretary. If the Secretary is absent from a meeting, the Chairperson shall designate another member to function as Secretary for that meeting. If the Chairperson is absent from a meeting, the Secretary shall assume the chair. If both the Secretary and the Chairperson are absent, the member with the most seniority shall assume the chair. A majority of the Commission shall constitute a quorum for the transaction of business. (Ord. of 11-9-1982)

Sec. 2-152. Meetings; rules.

(a) The North Adams Commission on Disabilities shall meet at such times as may be necessary for the proper exercise of its powers and duties. Special meetings may be called by the Chairperson, provided that forty-eight-hour notice is given the other Commission members either in writing or by telephone contact. The Chairperson is responsible for setting the agenda for each regular and special meeting.

(b) An affirmative vote of four members is required for any motion to pass. The Chairperson may limit presentations from interested parties and guests, provided that he/she does so prior to the beginning of the debate and/or presentation, and provided that a minimum of 10 minutes be given each side debating or presenting an issue. The Commission may make such additional rules and regulations for its own government and in relation to its officers and members as it may deem expedient and proper. On all matters of parliamentary procedure not provided for in these rules or by law or ordinance, Robert's Rules of Order shall govern. (Ord. of 11-9-1982; Ord. of 10-22-1991)

Sec. 2-153. Powers and duties.

(a) The North Adams Commission on Disabilities shall perform such duties as the City Council by ordinance may from time to time prescribe. The North Adams Commission on Disabilities shall analyze, evaluate and set priorities for all requests laid before it for aid and/or services to the various handicapped service agencies in North Adams and such other handicapped service agencies as the Commission may determine to be within its jurisdiction. It is the duty of the North Adams Commission on Disabilities to encourage the effective and efficient operation of handicapped service agencies within its jurisdiction. The North Adams Commission on Disabilities is empowered to explore

all areas of funding for the handicapped and to serve as an advocacy group for the needs and concerns of the handicapped.

(b) The Commission may hold hearings; upon execution by the City's chief executive, may enter into contracts with individuals, organizations and institutions for services furthering the objectives of the Commission's program; may accept gifts, contributions and bequests of funds from individuals, foundations and from federal, state and other governmental bodies for the purpose of furthering the Commission's program; and may do and perform any and all acts which may be necessary or desirable to carry out the purpose of this section. (Ord. of 11-9-1982; Ord. of 10-22-1991)

Sec. 2-154. Records and annual report.

The North Adams Commission on Disabilities shall keep a detailed record of its acts and proceedings and shall make an annual report to the Mayor in connection with such record. (Ord. of 11-9-1982; Ord. of 10-22-1991)

ARTICLE XXX, . CHIEF PROCUREMENT OFFICER. BEGIN CROSSNOTE Cross references - City Auditor, § 2-46 et seq.; purchases and contracts, Ch. 18. END CROSSNOTE

Sec. 2-155. Appointment.

There shall be a Chief Procurement Officer appointed by the Mayor and who may be removed by the Mayor. (Ord. of 6-12-1990)

Sec. 2-156. Powers and duties generally.

The Chief Procurement Officer shall have the powers and duties conferred by General Laws, Chapter 30B, Section 1 et seq., and shall perform such duties as the City Council by ordinance may from time to time prescribe. He shall report to the Mayor. He shall be responsible for all activities related to buying, leasing, renting or otherwise acquiring supplies and services for the City. Said Chief Procurement Officer shall not be subject to the provisions of Chapter 31 of the General Laws. (Ord. of 6-12-1990)

Sec. 2-157. Delegation of powers.

Subject to the provisions of General Laws, Chapter 30B, and the approval of the Mayor, the

Chief Procurement Officer may delegate his powers and duties to one or more officers, officials and employees of the City. (Ord. of 6-12-1990)

ARTICLE XXXI, . TRAFFIC AND PARKING CONTROL DEPARTMENT.

Sec. 2-158. Establishment.

There is hereby established, within the Office of Mayor, a Traffic and Parking Control Department. (Ord. of 1-8-1991; Ord. of 2-19-1991)

Sec. 2-159. Parking Clerk; duties.

There shall be a Parking Clerk who shall be appointed by the Mayor for a three-year term. This position of Parking Clerk created under this section shall not be subject to the provisions of Chapter 31 of the General Laws or the provisions of Section 9A of Chapter 30 of the General Laws. The Parking Clerk's duties shall include those as provided for under Section 20A 1/2 of Chapter 90 of the General Laws. (Ord. of 1-8-1991; Ord. of 2-19-1991)

Sec. 2-160. Parking Control Officer(s); duties.

The Mayor shall appoint, annually on January 1, Parking Control Officer(s). The number of Parking Control Officer(s) to be appointed shall be determined by the City Council in the annual budget. The Parking Control Officer(s) shall enforce all ordinances under Chapter 13, Article V, entitled "Stopping, Standing or Parking Generally." The Parking Control Officer(s) shall also enforce Chapter 21, Section 21-12, entitled "Snow and ice removal from sidewalks." The Parking Control Officer(s) shall not be subject to the provisions of Chapter 31 of the General Laws or the provisions of Section 9A of Chapter 30 of the General Laws. (Ord. of 1-8-1991; Ord. of 2-19-1991)

Sec. 2-161. Compensation.

Employees of the Traffic and Parking Control Department shall receive such compensation as shall be fixed by the Mayor, with the approval of the City Council. The Mayor may engage the services of such additional part-time employees as required to perform the functions of the office. This includes the contracting out of services and goods. (Ord. of 1-8-1991; Ord. of 2-19-1991)

ARTICLE XXXII, . NORTH ADAMS SCHOLARSHIP COMMITTEE.

Sec. 2-162. Establishment; composition; qualifications; compensation.

The North Adams Scholarship Committee is hereby established and shall consist of five members, whose members shall consist of the Superintendent of Schools or his designee and four residents of the City. Such members shall serve without compensation. (Ord. of 8-22-1995)

Sec. 2-163. Appointment; terms; vacancy.

Other than the Superintendent of Schools or his designee, the Mayor shall appoint the remaining members of the Committee with the consent of the City Council to three-year terms, one member of which shall be designated by the Mayor as Chairperson. In the first year the Mayor shall appoint two members to one-year terms, one member to a two-year term and one member to a three-year term. All subsequent terms shall be three years in length and so arranged that the terms of not more than two members shall expire each year on the first day of January. If for any reason a vacancy occurs in the membership of the Committee, the vacancy shall be filled forthwith by the Mayor, with the consent of the City Council, for the unexpired term. (Ord. of 8-22-1995)

Sec. 2-164. Organization; quorum.

Beginning in January 1996, and every year thereafter, the Committee shall elect the Chairperson from among its own members. The Chairperson shall annually appoint a member to serve as Secretary. If the Secretary is absent from a meeting, the Chairperson shall designate another member to function as Secretary for that meeting. If the Chairperson is absent from a meeting, the Secretary shall assume the chair. If both the Chairperson and Secretary are absent, the member with the most seniority shall assume the chair. A total of four members of the Committee shall constitute a quorum for the transaction of business. (Ord. of 8-22-1995)

Sec. 2-165. Meetings; rules.

The Committee shall meet at such times as may be necessary for the proper exercise of its powers and duties. Special meetings may be called by the Chairperson, provided that 48 hours' notice is given to the other Committee members in writing or by telephone contact. The Chairperson is responsible for setting the agenda for each regular and special meeting. An affirmative vote of a majority of those members of the Committee present and voting is required for any motion to pass. The Committee may make such additional rules and regulations for its

own government and in relation to its officers and members as it may deem expedient and proper. On all matters of parliamentary procedure not provided for in these rules or by law or by ordinance, Robert's Rules of Order shall govern. (Ord. of 8-22-1995)

Sec. 2-166. Powers and duties.

The Committee shall have the powers and duties conferred by General Laws, Chapter 60, Section 3C, and shall perform such duties as the City Council, by ordinance, may, from time to time, prescribe. The Committee shall select the recipients of and amounts of financial aid from the scholarship fund and shall be guided by any criteria established by the Committee. However, the recipients of financial aid must be residents of the City at the time the financial aid is first awarded and have been accepted to pursue education beyond the secondary school level at an institution deemed accredited by the Committee. Also, the Committee shall take into consideration each recipient's financial need, character, scholastic record and involvement in community work as well as extracurricular school activities. The Committee may accept gifts, contributions and bequests of funds from individuals, foundations and from federal, state and other governmental bodies for the purpose of funding the Committee's program, provided that all funds received shall be deposited into a special account in the general treasury and shall be in the custody of the Treasurer, pursuant to General Laws, Chapter 60, Section 3C; and may do and perform any and all acts which may be necessary or desirable to carry out the purpose of this section. (Ord. of 8-22-1995)

ARTICLE XXXIII, North Adams Youth Commission

Sec. 2-167. Establishment; composition; qualifications; compensation.

There is hereby established a commission to be known as the "Youth Commission." The mission of the Youth Commission will be to provide an ongoing forum for communication between City government and local youth.

The Youth Commission will respond to requests for comment and recommendation on matters referred to the Commission by officers, departments, agencies, boards, commissions and advisory committees of the City of North Adams.

The Youth Commission will advise the City Council and Mayor about how such recommendations could be coordinated in the community to eliminate duplication in cost and effort. The Youth Commission will identify the concerns and needs of the youth of North Adams; examine existing social, economic, educational, and recreational programs for youth; develop and propose plans that support or improve such programs; and make recommendations

thereon to the Mayor and City Council. This process will allow opportunities for effective participation by youth in the governmental process, and improve the social, economic, educational, and recreational advantages of the City's youth.

The Youth Commission shall consist of a total of 15 voting members, including 10 residents ages 13 to 22, two of whom will be college students, and five adults who represent a variety of interests in the community. The Youth Commission shall consist of individuals who have an understanding of the needs of young people in North Adams, experience with youth programs or youth organizations, or involvement with school or community activities. The members shall represent the diversity of ethnicity, race, gender, sexual orientation and socioeconomic status of the people of the City and shall be residents of the City.

Members of the Commission shall not be compensated, nor shall they be reimbursed for expenses. (Ord. of 7-13-2010)

Sec. 2-168. Appointment; terms; vacancy.

The Mayor, with the approval of the City Council, will make appointments.

The youth members shall be appointed for terms of such length and so arranged that the terms of four members will expire in one year; the terms of three members will expire in two years; and the terms of the remaining three members will expire in three years.

The adult members shall be appointed for terms of such length and so arranged that the terms of two members will expire in one year; the terms of two members will expire in two years; and the term of the remaining one member will expire in three years.

All subsequent terms of the Commissioners shall be three years in length.

In the event a vacancy occurs during the term of office of any voting member, a successor shall be appointed to complete the unexpired term of the office.

Any member of the Youth Commission so appointed may, after a public hearing, if requested, be removed for cause by the Mayor. (Ord. of 7-13-2010)

Sec. 2-169. Organization; quorum.

Yearly, at the first meeting in October, the Youth Commission shall elect Co-Chairs consisting of one youth Commissioner and one adult Commissioner. A majority of the Commissioners then in office shall constitute a quorum.

(Ord. of 7-13-2010; Ord. of 9-13-2011)

Sec. 2-170. Meetings; rules.

The Youth Commission shall meet quarterly and at such times as may be necessary for the proper exercise of its powers and duties.

To aid in the orderly conduct of business, the Commission may have the authority to create, amend, and repeal its own code of bylaws.

On all matters of parliamentary procedure Robert's Rules of Order shall govern. (Ord. of 7-13-2010)

Sec. 2-171. Powers and duties.

The Youth Commission may exercise all the powers vested in it under the law or prescribed to it by law and shall perform such duties as the City Council by ordinance may from time to time prescribe. (Ord. of 7-13-2010)

Sec. 2-172. Public hearings.

The Youth Commission shall, from time to time, conduct public hearings in order to ascertain the youth needs of the community. (Ord. of 7-13-2010)

CHAPTER 3. BUILDING CODE.[EN(32)]

Sec. 3-1. Short title and purpose.

These regulations shall be known as the "Building Code of The City of North Adams, hereinafter referred to as the "Basic Code." They shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and their service equipment as herein defined and shall apply to existing or proposed buildings and structures in the City except as such matters are otherwise provided for in other ordinances or statutes. (3-23-65, § 3.1.)

Sec. 3-2. Construction of chapter.

The Basic Code shall be construed to secure its expressed intent and insure public safety health and welfare insofar as they are affected by building construction through structural strength, adequate, egress facilities, sanitary equipment, light and ventilation and fire safety and in general, to secure safety to life and property from all hazards incident to the design, erection, repair, removal, demolition or use and occupancy of buildings, structures or premises. (3-23-65, § 3.2.)

Sec. 3-3. Applicability of chapter.

The provisions of the Basic Code shall apply to all buildings and

structures and their appurtenant constructions, including vaults, area and street projections and accessory additions, and shall apply with equal force to municipal, county, state and private buildings except where such buildings are otherwise specifically provided for by statute. (3-23-65, § 3.3.)

Sec. 3-4. Compliance with chapter required.

No building or structure shall be constructed, extended, repaired, removed or altered in violation of these provisions except for ordinary repairs as defined in section 3-6 and except, further, that the raising or lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted; provided, that the building is not otherwise altered or its use or occupancy changed. (3-23-65, § 3.32.)

See. 3-5. Determination of requirements not specifically covered by chapter.

Any requirement essential for structural, fire or sanitary safety of an existing or proposed building or structure or essential for the safety of the occupants thereof and which is not specifically covered by the Basic Code shall be determined by the building inspector consistent with existing law. (3-23-65, § 3.3.2.)

Sec. 3-6. Ordinary repairs.

Ordinary repairs to buildings may be made without application or notice to the building inspector, but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exit requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general

safety. (3-23-65, 3.3.3.)

Sec. 3-7. Certificate of approval prerequisite to use of installed, altered, repaired, etc., service equipment.

When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigerating, air conditioning or ventilating apparatus, plumbing, gas piping, electric wiring, heating system or any other equipment is specifically controlled by the provisions of the Basic Code or applicable regulations or laws, it shall be unlawful to use such equipment until a certificate of approval has been issued therefor by the building inspector or other governmental agency having jurisdiction. (3-23-65, § 3.5.)

Sec. 3-8. Safe and sanitary maintenance of buildings.

All building and structures and all parts thereof, both existing and new, shall be maintained in a safe and sanitary condition. All service equipment, means of egress, devices and safeguards which are required by the Basic Code in a building or which were required by a previous statute in a building when erected, altered or repaired shall be maintained in good working order.

The owner or his designated agent shall be responsible for the safe and sanitary maintenance of the building or structure and its exit facilities at all times. (3-23-65, § § 3.6, 3.6.1.)

Sec. 3-9. Continuation of use and occupancy of existing buildings.

The legal use and occupancy of any structure existing on April 1, 1965, or for which it had been heretofore approved may be continued without change except as may be specifically covered in the Basic Code or as may be deemed necessary by the building inspector for the general safety and welfare of the occupants and the public. (3-23-65, § 3.7.)

Sec. 3-10. Change in use or occupancy of buildings.

It shall be unlawful to make any change in the use or occupancy of any structure which would subject it to any special provision of the Basic Code without approval of the building inspector and his certification that such structure meets the intent of the provisions of law governing building construction for the proposed new use and occupancy and that such change does not result in any greater hazard to public safety or welfare. (3-23-65, § 3.7.1)

Sec. 3-11. Alteration or repair of existing buildings.

Except as provided in this section, existing buildings when altered or repaired as herein specified shall be made to conform to the full requirements of the Basic Code for new buildings:

(a) *Alterations exceeding fifty per cent*. If alterations or repairs are made within any period of twelve months, costing in excess of fifty per cent of the physical value of the building.

(b) *Damages exceeding fifty per cent.* If the building is damaged by fire or any other cause to an extent in excess of fifty per cent of the physical value of the building before the damage was incurred.

(c) *Alterations under fifty per cent.* If the cost of alterations or repairs described herein is between twenty-five and fifty per cent of the physical value of the building, the building inspector shall determine to what degree the portions so altered or repaired shall be made to conform to the requirements for new buildings.

(d) *Alterations under twenty-five per cent*. If the cost of alterations or repairs described herein is twenty-five per cent or less of the physical value of the building, the building inspector shall permit the restoration of the building to its condition previous to damage or deterioration with the same kind of materials as those of which the building was constructed; provided, that such construction does not endanger the general safety and public welfare and complies with the provisions of section 109.2 of the Third Edition, 1960, BOCA Abridged Building Code as amended, in respect to existing roofs.

(e) *Increase in size*. If the building is increased in floor area or number of stories, the entire building shall be made to conform with the requirements of the Basic Code in respect to means of egress, fire safety, light and ventilation.

(f) *Partial change in use or occupancy*. If a portion of the building is changed in occupancy or to a new use group and that portion is separated from the remainder of the building with the required vertical and horizontal fire divisions complying with the fire grading in Appendix E1 of the Third Edition, 1960, BOCA Abridged Building Code, as amended, then the construction involved in the change shall be made to conform to the requirements for the new use and occupancy, and the existing portion shall be made to comply with the exit requirements of the Basic Code.

In applying the provisions of this section, the physical value of the building shall be determined by the building inspector based on current replacement costs. (3-23-65, §§ 3.8 to 3.8.7.)

Sec. 3-12. Powers and duties of building inspector generally.

The building inspector shall enforce all the provisions of the Basic Code and shall act on any question relative to the mode or manner of construction and the materials to be used in the erection, addition to, alteration, repair, removal, demolition, installation of service equipment and the location, use, occupancy and maintenance of all buildings and structures except as may

otherwise be specifically provided for by statutory requirements or as herein provided:

(a) *Applications and permits*. He shall receive applications and issue permits for the erection and alteration of buildings and structures and examine the premises for which such permits have been issued and enforce compliance with the Basic Code provisions.

(b) *Building notices and orders*. He shall issue all necessary notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction, to require adequate exit facilities in existing buildings and structures and to insure compliance with all the code requirements for the safety, health and general welfare of the public.

(c) *Inspections*. He shall make all the required inspections, or he may accept reports of inspection of authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual; or he may engage such expert opinion as he may deem necessary to report upon unusual technical issues that may arise, subject to the approval of the appointing authority.

(d) *Research and investigations*. He shall make or cause to be made investigations of new developments in the building industry. Subject to local climatic or other conditions, he shall accredit tests meeting the functional requirements of the Basic Code conducted by accredited authoritative agencies listed in Appendix A of the Third Edition, 1960, BOCA Abridged Building Code, as amended, or he may accept duty authenticated reports from the Building Inspectors Conference of America or from recognized authoritative sources of all new materials and methods of construction proposed for use which are not specifically provided for in the Basic Code. The costs of all tests or other investigations required under these provisions shall be paid by the applicant.

(e) *New materials.* He shall establish the conditions for use of new materials consistent with the provisions of the Basic Code and with minimum requirements based on accepted engineering practice. (3-23-65, §§ 3.9 to 3.9.5.)

Sec. 3-13. Modifications or variances from provisions of chapter.

When there are practical difficulties involved in carrying out structural or mechanical provisions of the Basic Code, the building inspector may vary or modify such provision upon application of the owner or his representative; provided, that the spirit and intent of the law shall be observed and public welfare and safety be assured. The application for modification and the final decision of the building inspector shall be in writing and shall be officially recorded with the application for the permit in the permanent records of the department of building inspection. (3-23-65, §§ 3.10, 3.10.1.)

Sec. 3-14. Inspection of buildings, materials, etc.; inspection reports.

(a) *Preliminary inspection.* Before issuing a permit, the building inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof, and he shall conduct such inspections from time to time during and upon completion of the work for which he has issued a permit; he shall maintain a record of all such examinations and inspections and of all violations of the Basic Code.

(b) *Accredited inspection services.* He may accept reports of his own inspectors or of approved inspection services which satisfy his requirements as to qualifications and reliability.

(c) *Plant inspection.* When required by the provisions of the Basic Code, materials or assemblies shall be inspected at the point of manufacture or fabrication.

(d) *Inspection reports.* All inspection reports shall be in writing and shall be certified by the licensed authority or responsible officer of the service or the individual when expert inspection services are accepted. A label or mark of approval permanently fixed to the product indicating that factory inspection has been made shall be accepted in lieu of the aforesaid report in writing.

(e) *Final inspection.* Upon completion of the building or structure and before issuance of the certificate of use and occupancy required in section 3-28, a final inspection shall be made, and all violations of the approved plans and permit shall be noted, and the holder of the permit shall be notified of the discrepancies. (3-23-65, §§ 3.11 to 3.11.4.)

See. 3-15. Right of entry by building inspector in performance of duties; badge; cooperation from other municipal officials.

Right of entry. In the discharge of his duties, the building inspector or his authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the municipality to enforce the provisions of the Basic Code.

Official badge. He may adopt a badge of office for himself and assistants, which shall be displayed for the purpose of identification.

Municipal cooperation. The assistance and cooperation of the police, fire, and health departments and all other municipal officials shall be available to him as required in the performance of his duties. (3-23-65, §§ 3.12 to 3.12.2.)

Sec. 3-16. Building permit--Required; exceptions.

It shall be unlawful to construct, enlarge, alter, remove or demolish or change the occupancy of a building from one use group to another requiring greater strength, exit or sanitary provisions or to change to a prohibited use or to install or alter any equipment for which provision is made or the installation of which is regulated by the Basic Code without first filing an application with the building inspector in writing and obtaining the required permit therefor; except that ordinary repairs as defined in section 3-6 which do not involve any violation of the Basic Code shall be exempt from this provision. (3-23-65, § 3.13.)

Sec. 3-17. Same--Application generally.

(a) *Form.* The application for a permit shall be submitted in such form as the building inspector may prescribe.

(b) *By whom made.* Application for a permit shall be made by the owner or lessee of the building or structure or agent of either or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(c) *Description of work*. The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building and such additional information as may be required by the building inspector.

(d) *Plans and specifications.* The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to the Basic Code, specific information shall be given to establish such quality; and in no case shall the code be cited or the term "legal" or its equivalent be used as a substitute for specific information. The building inspector may waive the requirement for filing plans when the work involved is of a minor nature.

(e) *Plot diagram.* There shall also be filed a plot plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines and the established street grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction

to be demolished and the location and size of all existing buildings and construction that are to remain on the site or plot.

(f) *Engineering details.* The building inspector may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the engineer or architect responsible for the design.

(g) *Amendments.* Amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed part of the original application and shall be filed therewith.

(h) *Time limitation of application.* An application for a permit for any proposed work shall be deemed to have been abandoned six months after date of filing unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the building inspector may grant one or more extensions of time for additional periods not exceeding ninety days each. (3-23-65, §§ 3.13.1 to 3.13.8.)

Sec. 3-18. Same--Approval or rejection of application; previous approval; issuance.

The building inspector shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing stating the reasons therefor. If he is satisfied that the proposed work conforms to the requirements of the Basic Code and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

Nothing in the Basic Code shall require changes in the plans, construction or designated use of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized and the construction of which shall have been actively prosecuted within ninety days after the effective date of this chapter; and the entire building shall be completed as authorized within two years after the date of approval of the application. (3-23-65, §§ 3.14, 3.14.2.)

Sec. 3-19. Same--Approval for part of structure.

The building inspector may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building have been submitted; provided, adequate information and detailed statements have been filed complying with all the pertinent requirements of the Basic Code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(3-23-65, § 3.14.6.)

Sec. 3-20. Same--Endorsement of plans; display of plans at building site.

The building inspector shall stamp or endorse in writing both sets of corrected plans "Approved." One set of such approved plans shall be retained by him, and the other set shall be kept at the building site, open to inspection of the building inspector or his authorized representative at all reasonable times. (3-23-65, § 3.14.4.)

See. 3-21. Same--Signing by building inspector or authorized subordinate.

The building inspector shall attach his signature to every permit, or he may authorize a subordinate to affix such signature thereto. (323-65, § 3.14.3.)

See. 3-22. Same--Posting at building site.

A true copy of the building permit shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of the same. (3-23-65, § 3.14.7.)

Sec. 3-23. Same--Notice of commencement of work under permit.

At least twenty-four hours' notice of start of work under a building permit shall be given to the building inspector. (3-23-65, § 3.14.8.)

Sec. 3-24. Same--Expiration.

Any permit issued shall become invalid if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work. (3-23-65, § 3.14.1.)

Sec. 3-25. Same--Conditions.

(a) *Compliance with chapter.* The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the Basic Code except as specifically stipulated by modification or legally granted variation as described in the application.

(b) *Compliance with application and plans.* All work, shall conform to the approved

application and plans for which the permit has been issued and any approved amendments thereto.

(c) *Compliance with plot plan.* All new work shall he located strictly in accordance with the approved plot plan.

(d) *Change in plot plan.* No lot or plot shall be changed, increased or diminished in area from that shown on the official plot plan unless a revised diagram showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved; except that such revised plot plan will not be required if the change is caused by reason of ail official street opening, street widening or other public improvement. (3-23-65, § § 3.15 to 3.15.3.)

Sec. 3-26. Same--Revocation.

The building inspector may revoke a permit or approval issued under the provisions of the Basic Code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. (3-23-65, § 3.14.5.)

Sec. 3-27. Demolition and removal of buildings.

Before the razing of any building or structure is begun, an application shall be made out on blanks to be furnished by the inspector, containing a statement of the facts in relation thereto and as to ownership and location thereof. The applicant shall be filed with the inspector and a written permit obtained from him. Such permit shall expire by limitation two months from the date of its issue. The inspector shall be given notice immediately before the razing of any building or structure is begun. No permit for razing a building or structure located within twenty-five feet of a street line shall be issued unless the application for such permit shall have been filed with the City clerk, a bond approved prior to such filing by the City solicitor as to compliance and form and with such approval endorsed by him thereon in the penal sums hereinafter set forth, duly executed by the applicant and by either a surety company qualified to do business in the commonwealth, or by two personal sureties, which sureties shall be approved and acceptable to the inspector, who shall endorse his approval and acceptance of the sureties on the bond, conditioned to indemnify the City against any and all claims (including costs of trial) for personal injuries (including consequential damages and death) or damage to property resulting from the razing of any such building or structure and further conditioned to apply all judgments obtained against the applicant by reason of personal injuries (including consequential damages and death) or damage to property resulting from the razing of any such building or structure. Such bond or one similar in effect and amount must be maintained in force by the obligor until 90 days after the completion of the work.

A liability insurance policy providing at least the same protection to the City and to other

persons as hereinbefore set forth, approved by the City Solicitor as to compliance and form and with such approval endorsed by him thereon prior to such filing, may be substituted for such bond at the option of the applicant under the same conditions as to filing and maintaining in force. The penal sum of the bond or the amount of the liability insurance policy shall be in the sum of $1,000,000 on account of injury (including consequential damages and death) on one person; $1,000,000 on account of injury (including consequential damages and death) of more than one person; $50,000 on account of any accident resulting in damage to property.

In razing any building or structure or part thereof, one story at a time shall be removed. Old material shall be lowered to the ground immediately upon displacement, and the material to be removed shall be properly wet to lay the dust incident to its removal.

Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building such as water, electric, gas, sewer or other connections. A permit to demolish or remove a building shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment such as meters and regulators have been removed or sealed and plugged in a safe manner.

Whenever a building is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of the necessary retaining walls and fences. (3-23-1965, §§ 3.16 to 3.16.2; Ord. of 4-10-2001)

Sec. 3-28. Certificates of use and occupancy generally.

(a) *New buildings.* No building hereafter erected shall be used or occupied in whole or in part until the certificate of use and occupancy shall have been issued by the Building Inspector.

(b) *Existing buildings.* Upon written request from the owner of an existing building, the Building Inspector shall issue a certificate of use and occupancy; provided, there are no violations of law or orders of the Building Inspector pending, and it is established after inspection and investigation that the alleged use of the building has heretofore existed. Nothing in the Basic Code shall require the removal, alteration or abandonment of or prevent the continuance of the use and occupancy of a lawfully existing building unless such use is deemed to endanger public safety and welfare.

(c) *Changes in use and occupancy.* No building hereafter erected or hereafter enlarged, extended or altered to change from one use group to another in whole or in part and no building hereafter altered for which a certificate of use and occupancy has not been heretofore issued shall be occupied or used until the certificate shall have been issued by the Building Inspector, certifying that the work has been completed in accordance with

the provisions of the approved permit; except that any, use or occupancy, which was not discontinued during the work of alteration shall be discontinued within 30 days after the completion of the alteration unless the required certificate is secured from the Building Inspector. After a charge of use has been made in a building, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless all the applicable provisions of the Basic Code are complied with. A change from one prohibited use, for which a permit has been granted, to another prohibited use shall be deemed a violation of the Basic Code.

(d) *Temporary occupancy.* Upon the request of a holder of a permit, the Building Inspector may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the permit shall have been completed; provided, such portion or portions may be occupied safely prior to full completion of the building without endangering life or public welfare. (3-23-1965, § § 3.17 to 3.17.4.)

Sec. 3-29. Posting of buildings as to use and occupancy; removal, etc., of signs prohibited; inspection of signs.

Every building and structure and part thereof designed for storage, mercantile, industrial or business use shall be posted on all floors by the owner with a suitably designed placard in a form designated by the Building Inspector, which shall be securely fastened to the structure in a readily visible place, stating: the fire grading, the live load and the occupancy load.

Every building and structure and part thereof designed for use as a place of public assembly or as an institutional building for harboring

people for penal, correctional, educational, medical or other care or treatment shall be posted with an approved placard designating the maximum occupancy load.

All posting signs shall be furnished by the owner and shall be of permanent design, shall not be removed or defaced, and if lost, removed or defaced, they shall be immediately replaced.

The Building Inspector may periodically inspect all existing buildings and structures except one-family dwellings for compliance with the law in respect to posting, or he may accept the report of such inspection from an authorized licensed professional engineer or architect, and such inspection and report shall specify any violation of the requirements of the Basic Code in respect to the posting of floor load, fire grading, occupancy load and use group of the building. (3-23-65, §§ 3.18 to 3.18.3.)

Sec. 3-30. Unsafe buildings [EN(33)] -- Defined; notice; restoration or demolition.

All buildings or structures that are or hereafter shall become unsafe, unsanitary or deficient in

adequate exit facilities or which constitute a fire hazard or are otherwise dangerous to human life or the public welfare or which by reason of illegal or improper use, occupancy or maintenance shall be deemed unsafe buildings or structures. All unsafe buildings shall be taken down and removed or, made safe and secure as the Building Inspector may deemed necessary and as provided in this section. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of the Basic Code.

If an unsafe condition is found in a building or structure, the Building Inspector shall serve on the owner, agent or person in control of the building or structure a written notice describing the building or structure deemed unsafe specifying the required repairs or improvements to be made to render the building or structure safe and secure or requiring the unsafe building or structure or portion thereof to be, demolished within a stipulated time. Such notice shall require the person thus notified to immediately declare to the Building Inspector his acceptance or rejection of the terms of the order.

A building or structure condemned by the Building Inspector may be restored to safe condition; provided, no change of use or occupancy is contemplated or compelled by reason of such reconstruction or restoration; except that if the damage or cost of such reconstruction or restoration is in excess of fifty per cent of its replacement value, exclusive of foundations, such building shall be made to comply in all respects with the requirements for materials and methods of construction of buildings hereafter erected.

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the appropriate action to compel compliance shall be instituted and prosecuted. (3-23-65, §§ 3.21 to 3.21.2.)

Sec. 3-31. Same--Emergency measures.

(a) *Vacating and placarding.* When in the opinion of the Building Inspector. there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life or when any structure or part of a structure has fallen and life is endangered by the occupation of the building, the Building Inspector is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. He shall cause to be posted at each entrance to such building a notice reading as follows:

"THIS BUILDING IS UNSAFE AN ITS USE OR
OCCUPANCY HAS BEEN PROHIBITED BY
THE BUILDING INSPECTOR"

It shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

(b) *Temporary safeguards.* When, in the opinion of the Building Inspector, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe in accordance with chapter 143.

(c) *Closing adjacent streets, buildings, etc.* When necessary for the public safety, the Building Inspector may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe buildings and prohibit the same from being used.

(d) *Emergency repairs.* For the purposes of this section the Building Inspector shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(e) *Costs of emergency repairs.* Costs incurred in the performance of emergency work shall be paid from the municipal treasury on certificate of the Building Inspector, and the legal authority of the municipality shall institute appropriate action against the owner of the premises where the unsafe building or structure was located for the recovery of such costs. (3-23-65, § § 3.22 to 3.22.4.)

See. 3-32. Board of appeals--Authority generally.

The board of appeals as provided for in sections 2-87 to 2-98, shall act as the board of appeals under this chapter and shall have the same authority with respect to all matters coming before it in relation to this chapter as it now has by statute concerning zoning ordinances[EN(34)] unless otherwise provided. (3-23-65, § 3,23.)

Sec. 3-33. Same--Time for perfecting appeal.

A person whose application for a permit under this chapter has been refused by the inspector may appeal to the board of appeals within fifteen days thereafter. A person who has been ordered by the inspector to incur expense, as provided in section 3-12, may so appeal therefrom within fifteen days of the date of such order, and such appeal shall operate to stay such order pending determination of the appeal, except that, in case of a building or structure which, in the opinion of the inspector, is unsafe or dangerous, the inspector may in his order limit the time for such appeal to a shorter period. (3-23-65, § 3.23.1.)

Sec. 3-34. Same--Notice and hearing; action by board.

The board of appeals, when appealed to under the preceding section and after due notice to all interested parties and a public hearing, may vary the application of any provision of this chapter to any particular case when, in its opinion, the enforcement thereof would do manifest injustice

and would be contrary to the spirit and purpose of this chapter. (3-23-65, § 3.23.2.)

Sec. 3-35. Controlled materials procedure.

When plans for the erection or alteration of a building, are prepared by a licensed professional engineer or registered architect which contemplate structural work or structural changes involving public safety or health and such plans are accompanied by an affidavit of the applicant that he has supervised the preparation of the architectural, structural and mechanical design plans and that he will supervise or check all working drawings and shop details for the construction and that the structure will be built under his field supervision and in accordance with the approved plans and that such plans conform to all the provisions of the Basic Code and that all the material used in the construction will be controlled materials as herein defined, the Building Inspector may waive examination of the, plans and field inspection of the construction and may issue a permit for the performance of the work.

The licensed professional engineer or architect shall be qualified by experience and training in the particular field of construction involved in the building project under consideration.

Before the issuance of the certificate of use and occupancy for such building, the licensed professional engineer or architect who prepared and filed the original plans and who supervised the erection of the building shall file a verified report that the structure has been erected in accordance with the approved plans and, as erected, the building complies in all respects with the Basic Code and all other laws governing building construction except as to the specific variations legally authorized under the provisions of the Basic Code and as specifically noted in the verified report and cited in the certificate of use and occupancy. (3-23-65, § § 3.24 to 3.24.2.)

See. 3-36. Fire limits.

Fire limits are hereby established and shall be known as "District A," "District B" and "District C."

The area known as District A shall be those areas shown on the official "Building Zone Map, City of North Adams, Dated December 28, 1956," and any revisions thereto, as an I district 1, I district 2, CB district 1, CB district 2, and AP district.

The area known as district B shall be those areas shown on the official "Building Zone Map, City of North Adams, Dated December 28, 1956," and any revisions thereto, as CA-1, CA-2, CC-1 and CC-2 districts.

The area known as District C shall be those areas shown on the official "Building Zone Map, City of North Adams, Dated December 28, 1956," and any revisions thereto, as FP, RU-1, R-1, R-2 and R-3 districts. (3-23-65, § 3.25.)

Sec. 3-37. Classification of buildings--Generally.

For the purpose of this chapter, construction as used in buildings shall be of three classes:

(a) Buildings of Class One shall consist of noncombustible materials throughout, with floors having iron, steel or reinforced concrete beams, filled in between with terra cotta or other masonry arches or with concrete or reinforced concrete slabs and with no air space between the top of any floor arches and the floor boardings; except that wood may be used only for under and upper floors, windows and door frames, sashes, doors, interior finish and handrails for stairs, necessary sleepers and isolated furrings bedded in cement or mortar.

(b) Buildings of Class Two shall have external and party walls of brick, stone, terra cotta, tile, steel, concrete or other equally substantial and fire-resistant material. The roof, floors and partitions shall be of approved fire-resistant construction.

(c) Buildings of Class Three shall include any wood frame buildings, with floors, roof and partitions of wooden joist and stud construction, the supporting posts and girders of which may be of wood. (3-23-65, § 3.26.)

Sec. 3-38. Same--Manner of determining classification.

All buildings required to be of a given type of construction shall conform to the minimum requirements of this chapter for that class, but materials and combinations of materials which offer, greater resistance to fire than those specified for minimum requirements may be used.

When two or more types of construction occur in the same building and are separated as provided in this chapter, each portion so separated may be classified as of the type of construction to which it conforms; otherwise the entire building shall be classified as of the least fire-resistant type of construction used and shall be subject to the restrictions of this chapter imposed upon that type. An existing building which cannot be definitely classified as one of the types defined above shall be deemed for the purpose of this chapter to belong to the less fire-resistant of the three types to which it most nearly conforms. (3-23-65, § 3.27.)

Sec. 3-39. Construction of buildings--District A.

Every building hereafter erected in District A shall be constructed in accordance with the provisions of building of Class 1 as defined in section 3-37 unless otherwise permitted by the board of appeals. (3-23-65, § 3.28.)

Sec. 3-40. Same--District B.

Every building hereafter erected in District B shall be constructed in accordance with the provisions of building of Class 1 or 11 as defined in section 3-37 unless otherwise permitted by the board of appeals. (3-23-65, § 3.29.)

Sec. 3-41. Same--District C.

Every building hereafter erected in District C shall be constructed in accordance with the provisions for building of Class 1, 11 or 111 as defined in section 3-37 unless otherwise permitted by the board of appeals. (3-23-65, § 3.30.)

Sec. 3-42. Adoptions of Massachusetts State Building Code and Energy Code.

The City of North Adams adopts and incorporates by reference the International Building Code, 2009 Edition (IBC), including Section 110, Special Regulations, Section 115, Appendices A-AA. The International Building Code together with modifications as set forth as the Massachusetts amendments to the International Building Code 2009, shall collectively comprise the Massachusetts State Building Code (780 CMR), Eighth Edition, Base Volume, and shall run concurrently with the Massachusetts State Building Code (780 CMR), Seventh Edition, Base Volume until February 6, 2011. Commencing February 7, 2011, the Massachusetts State Building Code (780 CMR), Eighth Edition, Base Volume, and all its amendment described above, shall be in full effect.

The City of North Adams adopts and incorporates by reference the International Energy Conservation Code, 2009 Edition (IECC) with Massachusetts amendments (780 CMR 115.AA) (3-23-1965, § 3.31, 10-24-1967; Ord. of 10-26-2010)

See. 3-43. Violation of chapter--Penalty.

Any person who shall violate a provision of the Basic Code or shall fail to comply, with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Building Inspector or of a permit or certificate issued under the provisions of the Basic Code shall be guilty of a misdemeanor, punishable by a fine not exceeding one hundred dollars. Each day that a violation continues shall be deemed a separate offense. (3-23-65, § 3.19.2.)

See. 3-44. Same--Continuation of unlawful occupancy or use a violation.

The continuation of occupancy or use of a building or structure or of a part thereof contrary to the provisions of the Basic Code shall be deemed a violation and subject to the penalties prescribed by these Revised ordinances and the General Laws. (3-23-65, § 3.3.3.)

Sec. 3-45. Same--Abatement-Notice from Building Inspector.

The Building Inspector shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, use or occupancy of a building or structure in violation of the provisions of the Basic Code or in violation of a detailed statement or a plan approved thereunder or in violation of a permit or certificate issued under the provisions of the Basic Code; such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. (3-23-65, § 3.19.)

See. 3-46. Same--Same--Prosecution upon noncompliance with notice.

If the notice of violation is not complied with promptly, the Building Inspector shall request the legal counsel of the municipality to institute the appropriate proceeding, at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the Basic Code or of the order or direction made pursuant thereto (3-23-65, § 3.19.1.)

Sec. 3-47. Same--Same--Action by city.

The imposition of the penalties herein prescribed shall not preclude the legal officer of the municipality from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or use of a building or structure in or about any premises. (3-23-65, § 3.19.3.)

Sec. 3-48. Same--Stop-work order.

Upon notice from the Building Inspector that work on any building or structure is being prosecuted contrary to the provisions of the Basic Code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved or to the owner's agent or to the person doing the work or posted on the premises where the work is being performed and shall state the conditions under which work may be resumed.

Any person who shall continue any work in or about the building after having been served with a stop order, (except such work as he is directed to perform to remove a violation or unsafe

conditions) shall be deemed to be violating the Basic Code and shall be subject to punishment therefor in accordance with law. (3-23-65, §§ 3.20.1)

Sec. 3-49. Registration of vacant or foreclosed residential properties. (Ord. of 6-22-2010)

Sec. 3-49.1. Definitions.

When used in this Chapter, unless a contrary intention clearly appears, the following terms shall have the following meaning:

Address: A location as described by the full street number, if any, and the street name in the City of North Adams. "Address" shall not include a mailing address such as a post office box.

Agent in charge: One who manages real estate, including, but not limited to, the collection of rents and supervision and maintenance of property.

Foreclosed: The result of the legal proceeding in which a mortgagee, or other lienholder, obtains a court-ordered termination of a mortgagor's equitable right of redemption.

Local: Residing within 20 driving miles distance of the property in question.

Residential property: Any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes. For the purposes of this section, such property does not include property owned by or subject to control of the City or any of its governmental bodies. Such property includes, but is not limited to, property owned or controlled by the North Adams Redevelopment Authority and the North Adams Housing Authority.

Owners: Every person, corporation, partnership, or trust, who alone or severally with others has legal title to any dwelling, dwelling unit, or mobile dwelling unit.

Vacant: Any residential property not currently legally occupied and not properly maintained or secured.

Sec. 3-49.2. Registration of ownership.

All owners of foreclosed residential properties, whether vacant or occupied, must register such property with the Office of the Building Inspector or his or her designee. Such registration shall take place no later than 10 business days after a residential property is foreclosed upon.

All registrations shall state the owner's and/or agent in charge's telephone number and address. This registration must also certify that the property was inspected by the owner or agent in charge and identify whether the property is vacant at the time of registration.

If the property is vacant, the owner must designate a local agent in charge who will be responsible for the security and maintenance of the property. This designation must state the agent in charge's name, telephone number, and local mailing address. Registrations may require other information as required by the Building Inspector.

Sec. 3-49.3. Registration fee.

The fee for the registration of ownership of a vacant foreclosed property shall be $15 per property.

Sec. 3-49.4. Enforcement penalties.

Enforcement penalties shall be provided under Section 29-2, Noncriminal disposition. The City of North Adams shall establish a Building Inspector Fund. All monies collected pursuant to the violations of this chapter shall be directed to the Building Inspector Enforcement Fund.

Sec. 3-49.5. Severability.

If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions which shall remain in full force and effect.

Sec. 3-49.6. Implementation.

The provisions of this section are effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until 90 days after passage.

Sec. 3-49.7. Notice.

A copy of this section is to be mailed to all loan institutions, banks, real estate offices and management companies located and/or having legal or equitable interests in residential property located in the City of North Adams. (Ord. of 5-26-2009)

CHAPTER 3A, PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS

[HISTORY: Adopted by the City Council of the City of North Adams 6-26-2012. Amendments noted where applicable.]

GENERAL REFERENCES

Building code -- See Ch. 3.

§ 3A-1. Intent and purpose.

This chapter is enacted for the purpose of preserving and protecting significant buildings within the City that constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the City and to limit the detrimental effect of demolition on the character of the City. Through this chapter, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the City are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this chapter promotes the public welfare by making the City a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this chapter. (Ord. of 6-26-2012)

§ 3A-2. Definitions.

APPLICANT -- Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION -- An application for the demolition of a building.

BUILDING -- Any combination of materials forming a shelter for persons, animals, or property.

BUILDING INSPECTOR -- The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

COMMISSION -- The North Adams Historical Commission or its designee.

DEMOLITION -- Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION PERMIT -- The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED -- Any significant building, which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve-month demolition delay period of this chapter.

SIGNIFICANT BUILDING -- Any building within the City which is in whole or in part 50 years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

!BEGIN TABLE!

The Building is listed on, or is within an area listed on, the National Register of Historic Places; or

The Building has been found eligible for the National Register of Historic Places; or

The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth; or

The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings. (Ord. of 6-26-2012)

!END TABLE!

§ 3A-3. Procedure.

No demolition permit for a building, which is in whole or in part 50 years or more old, shall be issued without following the provisions of this chapter. If a building is of unknown age, it shall be assumed that the building is over 50 years old for the purposes of this chapter.

An applicant proposing to demolish a building subject to this chapter shall file with the Building Inspector an application containing the following information:

The address of the building to be demolished.

The owner's name, address and telephone number.

A description of the building.

The reason for requesting a demolition permit.

A brief description of the proposed reuse, reconstruction or replacement.

A photograph or photograph(s) of the building.

The Building Inspector shall within seven days forward a copy of the application to the Commission. The Commission shall within 15 days idler receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Inspector within 15 days of receipt of the application, the Building Inspector may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within 30 days of the written notification to the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in City Hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within 14 days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may then be issued for a period of 12 months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector in writing within 21 days of the public hearing, the Building Inspector may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of 12 months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be wanted until all plans for future use and development of the site have been filed with the Building Inspector and have found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy, including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Inspector may issue a demolition permit or a building permit for a preferably preserved building within the 12 months if the Commission notifies the Building Inspector in

writing that the Commission finds that the intent and purpose of this chapter is served even with the issuance of the demolition permit or the building permit.

Following the twelve-month delay period, the Building Inspector may issue the demolition permit. (Ord. of 6-26-2012)

§ 3A-4. Administration.

The Commission may adopt such rules and regulations as are necessary to administer the terms of this chapter.

The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this chapter.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

The Commission may proactively develop a list of significant buildings that will be subject to this chapter. Buildings proposed for the significant building list shall be added following a public hearing. (Ord. of 6-26-2012)

§ 3A-5. Emergency demolition.

If after an inspection, the Building Inspector finds that a building subject to this chapter is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission. (Ord. of 6-26-2012)

§ 3A-6. Enforcement and remedies.

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building subject to this chapter that demolished the building without first obtaining a demolition permit in accordance with the provisions of this chapter shall be subject to a fine of not more than $300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to

by the Commission.

If a building subject to this chapter is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission. (Ord. of 6-26-2012)

§ 3A-7. Historic Districts Act.

Following a determination that the building is significant and preferably preserved, the Commission may recommend to the City Council that the building be protected through the provisions of Massachusetts General Laws, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this chapter shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this chapter do so conflict, that act shall prevail. (Ord. of 6-26-2012)

§ 3A-8. Severability.

In case any section or part of this chapter be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect. (Ord. of 6-26-2012)

CHAPTER 4. CANVASSERS, SOLICITORS AND ITINERANT PHOTOGRAPHERS.

ARTICLE I. Canvassers and Solicitors Generally.

Sec. 4-1. Application of article.

The provisions of this article shall not apply to sections 4-9 to 4-14.

Sec. 4-2. Permit--Required; exceptions. [EN(35)]

Except as otherwise provided in this chapter, it shall be unlawful for any person to go in or upon any premises occupied for residential purposes within the city for the purpose of soliciting or canvassing from any occupant thereof orders for goods, wares, merchandise or services or for the purpose of offering to give or furnish any article or service in order to obtain such order, without first having applied for and received from the chief of police permit so to do.

It shall also be unlawful for any person, to establish and operate in or at any place within the city a telephone or telephones to be used for the purpose of soliciting or canvassing any person in the city for orders for goods, wares, merchandise or services, or for the purpose of offering to give or furnish any article or service in order to obtain such order, without first having applied for and received from the chief of police permit so to do.

Sec. 4-3. Same--Application; accompanying information.

Any person desiring to procure a solicitor's permit required by this article shall apply therefor in writing over his signature to the chief of police on a form provided for that purpose, and such application shall state:

(1) The name and address of the applicant.

(2) The name and address of the person, firm, association or corporation by whom or by which he is employed, or for whom or for which he is acting, if any.

(3) The length of service of such service with such employer.

(4) The place of residence and the nature of employment of the applicant during the last preceding year.

(5) The nature or character of the goods, wares, merchandise or services to be offered by the applicant.

(6) The personal description of the applicant.

Such applicants shall be accompanied by such credentials and other evidence of the good moral character and identity of the applicant as may be reasonably required by the chief of police having regard to the safety and welfare of the public.

In addition to the data required in this section a person, applying for a permit under section 4-21, shall set forth the following information: The name, address and telephone number or numbers of the location of such telephone or telephones; and the names and addresses of the operator or operators thereof.

Sec. 4-4. Same--Issuance; duration; fee.

If the chief of police shall be satisfied, after reasonable investigation, that no false statements have have been made in the application, he shall then issue the permit as applied for. Such permit shall expire on the thirty-first day of December in the year in which such permit shall have been issued. There shall be no charge or license fee for the issuance of such permit.

Sec. 4-5. Same--To be carried, exhibited, etc.

Any permit issued tinder this chapter shall be carried at all times by the applicant to whom issued, when soliciting or canvassing in the city, and shall be exhibited by any such applicants whenever he shall be requested so to do by any police officer or any person solicited; or read, when soliciting or canvassing by use of telephone.

Sec. 4-6. Same--Revocation.

Any permit issued under this chapter may be revoked by the chief of police for violation of of law, or any ordinance or regulation having the force of law, by the holder thereof, or if the chief has received information which reasonably leads him to believe that the holder of such Permit has been guilty, of having committed, or having attempted to commit a fraudulent act, or that he has been guilty of immoral conduct.

Sec. 4-7. Exemptions from provisions of chapter. [EN(36)]

This chapter shall not apply to any person engaged in the spreading of information concerning any religion or religious viewpoint, even though the sale of books, pamphlets or magazines may be involved therein. Neither shall it be construed so as to interfere with any person in his constitutional right to freedom of expression of opinion, either by means of speech or of written or printed matter.

No such permit shall be required in the case of a person who limits his solicitation to the sale of articles for the sale of which no license is required in the case of hawkers or peddlers; or of any person holding a hawker's or peddler's license, issued according to law, authorizing the holder thereof to be a hawker or peddler within the area of the city, or in the case of a person holding a transient vendor's license, authorizing him to do business in the city, or to solicitations, by agents, servants or employees of local established businesses, individually or corporately owned.

Sec. 4-8. Solicitation of funds for charitable or benevolent purposes.

Solicitors of funds for charitable or benevolent purposes shall comply with General Laws, chapter 68, section 17, if same be applicable under the terms thereof.

ARTICLE II. Itinerant Photographers and Solicitors of Photographs, etc.[EN(37)]

Sec. 4-9. Definition of "transient" and "itinerant".

The words "transient" and "itinerant", as used in this article, shall be deemed to mean and to include all persons who engage in and conduct within the city, whether in one locality or by traveling from house to house or front place to place, and whether as principal or agent, a temporary or transient photography business with the intention of continuing in such business in the city, for a period of not more than ninety days.

Sec. 4-10. Definition of "canvasser" and "solicitor".

The words "canvasser" and "solicitor" as used in this article, shall be deemed to mean and include any person who goes from house to house or from place to place in the city for the purpose of selling or taking orders for, or of offering to sell or take orders for, photographs, pictures or enlargements thereof, for future delivery.

Sec. 4-11. License--Required; exception.[EN(38)]

(a) It shall be unlawful for any person to engage in the business of a transient or itinerant photographer, canvasser or solicitor of photographs or pictures or enlargements of the same taken, photographed or otherwise made, prepared or enlarged, and sold or delivered, or to transact any business in connection therewith within the city without having first obtained a license so to do, as hereinafter provided, and without having first otherwise complied with the provisions of this article; provided, however, that nothing contained in this article shall apply to any person actually engaged in interstate commerce in a lawful manner and not for the purpose of evading the provisions of this article.

Sec. 4-12. Same-Application; bond.

Any person desiring to engine in the business of a transient or itinerant photographer, canvasser or solicitor of photographs, or pictures or enlargements thereof as hereinbefore defined, within the city, shall make an application in writing to the city council for a license so to do, which application shall be filed with the city clerk at least fourteen days before such applicant shall be authorized to begin such business. Such application shall state the name and residence of the applicant, the place where such licenses is to be conducted, the kind and type of photograph or enlargements to be sold, or for which orders are to be taken, and the length of time for which the

license is desired. No such license shall be issued until there is deposited with the city clerk a bond in the penal sum of one thousand dollars executed by the applicant and surety company or two responsible owners of real estate residing with the city, which bound shall be approved by the city solicitor, or in lieu thereof, a cash bond of equal amount, which bond shall, in either event, be conditioned that all photographs, pictures or enlargements taken, be as represented by him, and that he will refund any money or purchase prior paid on such work which is not as represented, and so as to indemnify and reimburse any person dealing with him in such business, in a sum equal to the amount of any payment which such purchaser may have been induced to make through misrepresentation as to the kind and character of photographic or enlargement work to be done. Any person so misled and who has been aggrieved by the misrepresentation of any license hereunder shall have a right of action on the bond for the recovery of the amount of his payment or damage suffered, or both. In the event a cash bond is deposited, the same shall be retained by the city clerk for a period of one hundred and twenty days after the expiration of any such license. Action upon either of the bonds for remedy under this section shall be begun within one hundred and twenty days after the expiration of any such license.

Sec. 4-13. Same--Prerequisites to issuance.

Upon the expiration of fourteen days from the time of filing of the application, required by section 4-12, and approval of the application by the city council, and upon the filing of the bond required by section 4-12 and the approval thereof by the City, solicitor, and the payment to the city clerk of the license fee for each and every person or agent engaged in the business of transient or itinerant photographer, solicitor or canvasser, a license shall be issued to the applicant or agents, and shall state the date of expiration of such license, which expiration date shall be not more than ninety days from the date of the license. Before any such license shall be issued, there shall also be filed with the city clerk an instrument in writing, signed by the applicant, nominating and appointing the city clerk and big successor in office his true and lawful agent with full power and authority to acknowledge service of process for and on behalf of such applicant and providing that such service of process in any action brought upon such bond, shall be deemed made when served upon the city clerk in the manner aforesaid. The city clerk shall forthwith upon receipt of such process forward the same to such licensee by registered mail, addressed to him at the address which the licensee shall have stated in his application.

Sec. 4-14. Orders and sales.

All orders taken or sales made by any licensee under the provisions of this article shall be in writing, and in duplicate, stating fully the terms thereof, together with the amount paid in advance, and the balance remaining due and one copy of such order or sale shall be delivered to the purchaser at time such order is taken or sale made.

CHAPTER 5. RESERVED EN(39)

CHAPTER 6. RESERVED EN(40)

CHAPTER 7. EN (41)DEPARTMENT OF PUBLIC SERVICES.EN(42)

Sec. 7-1. Establishment of Department.

A Department of Public Services is hereby established. Said Department shall be composed of a Streets and Facilities Division, an Engineering Division, a Library Division and a Veterans' Division. (Ord. of 4-28-1981)

Sec. 7-2. Commissioner of Public Services; office established.

There shall be a Commissioner of Public Services, who shall be appointed by the Mayor for a five-year term. The Commissioner of Public Services shall be compensated according to the compensation plan. Said Commissioner of Public Services shall not be subject to the provisions of Chapter 31 of the General Laws. (Ord. of 4-28-1981)

Sec. 7-3. Commissioner to have direction and control.

The Department of Public Services shall be under the direction, control and supervision of the Commissioner of Public Services and subject to the Mayor. The Commissioner of Public Services shall have the right to delegate, apportion or transfer his powers and duties to and among the various divisions of his Department, and shall promulgate regulations and rules for the various divisions. (Ord. of 4-28-1981)

Sec. 7-4. Reference elsewhere.

Any reference to "Commissioner of Public Works" elsewhere in these Revised Ordinances shall be deemed to mean Commissioner of Public Services as herein provided. (Ord. of 4-28-1981)

Sec. 7-5. Streets and Facilities Division established.

A Streets and Facilities Division is hereby established. Said Division shall be made up of such employees as provided in the classification and compensation plans. (Ord. of 4-28-1981)

Sec. 7-6. Scope of Division.

Said Streets and Facilities Division shall be responsible for all streets, highways, water systems and facilities, sewer systems and facilities, the cemeteries, all park and recreation facilities, operations, maintenance and repairs and the Historic Valley Campground maintenance and repairs. (Ord. of 4-28-1981)

Sec. 7-7. Powers and duties generally of Commissioner.

The Commissioner of Public Services shall have supervision,direction and control of:

(a) The construction, alteration, repair, care and lighting of streets, ways and sidewalks.

(b) The construction, alteration, repair and care of public sewers and drains, including administration of the cross-connection program.

(c) The construction, alteration, repair, care and maintenance of public bridges, except those bridges under the control of the Massachusetts Department of Public Works.

(d) The construction, extension, alteration and repair of the public waterworks.

(e) The care, superintendence and management of the public grounds, including parking lots, belonging to the City, except such grounds as are under the control of the School Committee and Parks and Recreation Commission, and the shade and ornamental trees standing and growing therein.

The Commissioner of Public Services may require that no person or corporation authorized by the City Council to dig up any public street or sidewalk shall begin such digging before furnishing to the Commissioner security satisfactory to him to restore such street or sidewalk to its former condition.

(f) The general supervision of all tree planting, wood cutting and reforestation on the watersheds.

(g) The Commissioner shall also, except as herein otherwise provided, have exclusively the powers and be subject to the duties, liabilities and penalties which may be by law given to or imposed upon Road Commissioners of towns.

(h) All parks, playgrounds, camping areas and recreation facilities within the City.

(i) All cemeteries within the City.

(j) The Veterans' Division.

(k) The librarian.

(l) The employees of the Council for the Aging.

(m) The employees of the Engineering Division. (Ord. of 4-28-1981; Ord. of 3-9-2004)

Sec. 7-7.1. Charges.

The Commissioner of Public Services shall impose the following charges to consumers for the following services:

(1) Resident, water pipe or meter thawing:

Business hours: $40.

Nonbusiness hours: $60.

(2) Nonresident or commercial, water pipe or meter thawing: $150 for the first hour and $50 per hour thereafter.

(3) Water meter shut off or turn on: $40.

(4) Street opening permit: $100.

(5) Sewer connections in Clarksburg:

(a) One-family house: $200 per year.

(b) Two-family house: $375 per year.

(c) Three-family house: $475 per year.

(d) More than three families: $175 per year per unit.

(e) Entrance fee: $1,000.

(6) Curb cutting services:

(a) Granite curb and cement concrete walk: $4 per square foot.

(b) Integral curb and walk, cement concrete: $5 per square foot.

(c) Concrete curb with cement concrete walk: $4 per square foot.

(d) Granite or concrete curb, no walk: $10 per linear foot.

(e) Granite or concrete curb, bituminous concrete walk: $3 per square foot.

(7) Sewer connections:

(a) Connection fee (except for West Shaft Road): $300.

Connection fee to existing West Shaft Road Line: $2,000.

(b) Gravel or dirt road excavation: $15 per linear foot.

(c) Surface treated road excavation: $18 per linear foot.

(d) Blacktop or Macadam surface excavation: $20 per linear foot.

(e) Concrete or brick surface excavation: $26 per linear foot.

(f) City labor force work to lay pipe: $18 per linear foot.

(g) Annual cross-connection test: $50 per device.

Retest of failed device: $25 per device.

(h) Cross-connection survey: $35 per hour.

(8) Sewer usage charges for those entities exempt from City property taxes: 100% of water charges.

(Ord. of 9-28-1982; Ord. of 2-9-1988; Ord. of 7-28-1998; Ord. of 6-27-2000; Ord. of 6-25-2002; Ord. of 9-24-2002; Ord. of 6-10-2003; Ord. of 3-9-2004; Ord. of 10-12-2004; Ord. of 9-12-2006; Ord. of 4-22-2008[EN(43)])

Sec. 7-8. Records of expenditures.

The Commissioner of Public Services shall keep or cause to be kept a set of suitable records and shall record therein the accounts of expenditures of the various divisions of his Department, which records shall show the expenditures for construction and extension separate from the accounts, for maintenance, and shall keep them with such particularity as to properly differentiate, between the various divisions, the cost and expense thereof and of the various types of work undertaken by each division. (Ord. of 4-28-1981)

Sec. 7-9. Powers and duties in connection with tree planting, wood cutting, etc., on City

watershed.

The Commissioner of Public Services shall have general supervision of all tree planting, wood cutting and reforestation on the watersheds owned by the City. He shall keep, have custody of, and be responsible for complete and accurate records of all operations, which records shall be open to the public, including a record of all types of trees planted, wood and timber cut, number of board feet cut, all exact locations of tree planting, wood cutting and reforestation.

The sale of any such standing wood or timber on the watersheds owned by the City shall be under the direction and supervision of the Commissioner of Public Services, and the sale and cutting thereof shall be conducted and performed only under contract in pursuance of bids publicly advertised for and publicly opened, which such advertisements shall in all particulars be substantially in conformity with practice commonly established and used by the Commonwealth of Massachusetts relating to such advertisements for such bids.

Full performance of the contract of sale by the bidder shall be supervised by the Commissioner of Public Services.

No sale of such standing wood or timber shall be valid unless the provisions of this section are complied with. (Ord. of 4-28-1981)

Sec. 7-10. Transfer station control.

The Commissioner of Public Services or his designee shall have control, supervision and responsibility for the operation of the transfer station, and related activities. Said transfer station shall be operated in conformity with all applicable laws, rules and regulations. As part of these duties, the Commissioner of Public Service will ensure that a copy of Section 7-11, entitled "Disposal of waste at transfer station; charges," is posted in a conspicuous location in the vicinity of the transfer station. Additionally, the Commissioner of Public Services will ensure that a list of recyclable materials (both mandatory and voluntary) be posted in a conspicuous location in the vicinity of the transfer station. (Ord. of 4-28-1981; Ord. of 6-9-1992)

Sec. 7-11. Disposal of waste at transfer station; charges.

(a) For the purposes of this section, the following terms, phrases, words and their derivations shall have the meanings given herein; unless the context in which they are used clearly requires a different meaning:

Appliances: Refrigerators, freezers, washing machines, dryers, stoves, ranges, water heaters, air conditioners, humidifiers and dehumidifiers.

Bag: That nonreusable device purchased from the City of North Adams for the sole purpose of

the disposal of refuse.

Building materials: Materials derived through the demolition, renovation, rehabilitation or construction of new and existing buildings or structures, except City projects exempted with the approval of the Mayor. Effective July 1, 2006, demolition materials consisting of asphalt pavement, brick and/or concrete are prohibited from disposal at the transfer station.

Commercial business: Any business, company, corporation or private enterprise.

Commercial trash hauler: Any trash hauler which has a current common carrier permit issued by the State Department of Public Utilities.

Compost material: Leaves and grass clippings.

General refuse: Material consisting of general household trash and garbage. Household refuse other than garbage shall be categorized as either building materials or noncompacting materials at the discretion of the transfer station scale operator.

Mixed load: Any combination of general refuse, brush, cord wood, pallets, wooden crates, building materials and debris, metal, appliances, recyclable material and compost material.

Noncompacting material: Those materials that are not capable of being compacted by use of reasonable and normal means, including, but not limited to, mattresses, box springs, couches, chairs, furniture and other items.

Nonresident: Any person not residing within the City limits and whose residence lies in a community having an agreement with the City of North Adams for the disposal of waste.

Part-time resident: Any person residing within the City limits less than 12 months per year.

Recyclable material: All glass, cans, newsprint, other recyclable paper and other materials appearing on the latest addition of the acceptable materials list published by the Material Recovery Facility (MRF) and any other material deemed economically and technically appropriate for recycling by the Commissioner of Public Services.

Resident: Any person residing within the City limits 12 months per year.

Wood: Any wooden material, including, but not limited to, lumber, broken-down furniture or construction debris, painted or unpainted, treated or untreated.

(b) The Commissioner of Public Services shall impose the following fees for use of the City's transfer station for the following services effective July 1, 1992:

Commercial

(1) All commercial trash haulers shall pay license fees in accordance with the fee structure contained in Regulation 3, Section c, of the rules and regulations of the Board of Health

of the City of North Adams for the operation of a Facility for Solid Waste Disposal by Sanitary Landfill for the City of North Adams in order to operate within the City of North Adams.

(2) All commercial businesses desiring to enter and utilize the transfer station shall pay a fee of $85 for a primary permit; and $85 for each additional vehicle registered to the same commercial business when purchased together. Permits are renewable on July 1 of each calendar year. (Ord. of 3-8-2011)

(3) Admission to the transfer station will not be allowed to any commercial business which does not have a permit attached to a window on said vehicle. All permits are nontransferable and may only be affixed to vehicles owned by the commercial business. (This paragraph to become effective July 1, 1994.)

(4) Rates.

General refuse: $0.040 per pound effective September 1, 2008
General refuse: $0.042 per pound effective January 1, 2009
Brush and cord wood: $6 per cubic yard
Brush and cord wood limited to 4 feet in length maximum
Building materials and debris: $0.0475 per pound
Metal, excluding appliances: $0.06 per pound
Appliances: $50 per appliance
Recyclable material: $25 per ton, except the Northern Berkshire Solid Waste Management District is $30 per ton
Compost material: no charge
Car tires: $4 per tire
Car tires with rims: $6 per tire
Truck tires equal to or smaller than size 1100-20: $20 each
Truck tires larger than size 1100-20: $35 each
Truck tires with rims: $10 per tire in addition to the above listed charges
Noncompacting material: $15 per piece
Wood: $0.10 per pound, minimum charge $2
Mixed loads will be charged at the highest category rate of those categories comprising the mixed load.

(c) The Commissioner of Public Services shall impose the following fees for use of the City's transfer station for the following services effective July 1, 1992.

Residential

(1) All residents desiring to enter and utilize the transfer station will be required to pay a fee of $60 for a primary permit; $5 for each additional vehicle in the same household when purchased together. Permits are renewable on July 1 of each calendar year.

(2) All residents, including part-time residents, desiring to enter and utilize the transfer station from January 1 to June 30 will be required to pay a fee of $35 for a primary permit and $5 for each additional vehicle in the same household when purchased

together.

(3) All residents, including part-time residents, desiring to enter and utilize the transfer station on a monthly basis will be required to pay a fee of $20 per month for a temporary permit; the total fee for the temporary permit is to be based on the temporary fee rate and the number of months the temporary permit is to be valid.

(4) Admission to the transfer station will not be allowed to any personal vehicle which does not have a permit attached to a window on said vehicle. All permits are nontransferable and may only be affixed to vehicles owned by residents or affixed to vehicles owned by persons residing in the same household.

(5) Rates.

General refuse: $0.0375 per pound effective September 1, 2006
General refuse: $0.038 per pound effective January 1, 2007
Brush and cord wood: $6 per cubic yard
Building materials and debris: $0.0475 per pound
Metal, excluding appliances: $0.06 per pound
Appliances: $50 per appliance
Recyclable material: no charge
Compost material: no charge
Car tires: $4 per tire
Car tires with rims: $6
Truck tires equal to or smaller than size 1100-20: $20 each
Truck tires larger than size 1100-20: $35 each
Truck tires with rims: $10 per tire in addition to the above listed charges
Noncompacting material: $15 per piece
Wood: $0.10 per pound, minimum charge $2
Minimum scale charge: $6
Mixed loads will be charged at the highest category rate of those categories comprising the mixed load.

(d) No persons, associations, partnerships or corporations engaged in any form of business or commercial activity shall be allowed to purchase a transfer station permit and attach it to a truck or pickup truck owned by them. Persons, associations, partnerships or corporations engaged in any form of business or commercial activity who use the transfer station shall be charged in accordance with the commercial rates.

(e) The Commissioner of Public Services shall impose the following fees for use of the City's transfer station for the following services effective July 1, 1994:

Nonresident

(1) All nonresidents desiring to enter and utilize the transfer station will be required to pay a fee of $80 for a primary permit. No additional permits, other than the primary permit will be made available to nonresidents. Permits are renewable on July 1 of each calendar

year.

(2) All nonresidents desiring to enter and utilize the transfer station on a monthly basis will be required to pay a fee of $30 for a temporary permit. The total fee for the temporary permit is to be based on the temporary fee rate and the number of months the temporary permit is to be valid.

(3) Admission to the transfer station will not be allowed to any personal vehicle which does not have a permit attached to a window on said vehicle. All permits are nontransferable and may only be affixed to vehicles owned by the purchasing nonresident or affixed to vehicles owned by persons residing in the same household.

(4) Rates:

General refuse: $0.0375 per pound effective September 1, 2006
General refuse: $0.038 per pound effective January 1, 2007
Brush and cord wood: $6 per cubic yard
Building materials and debris: $0.0475 per pound
Metal, excluding appliances: $0.06 per pound
Appliances: $50 per appliance
Recyclable material: no charge
Compost material: no charge
Car tires: $4 per tire
Car tires with rims: $6
Truck tires equal to or smaller than size 1100-20: $20 each
Truck tires larger than size 1100-20: $35 each
Truck tires with rims: $10 per tire in addition to the above listed charges.
Noncompacting material: $15 per piece
Wood: $0.10 per pound, minimum charge $2
Minimum scale charge: $6
Mixed loads will be charged at the highest category rate of those categories comprising the mixed load.

(f) The Commissioner of Public Services shall impose the following fees for accepting specific household electronics at the City's transfer station. Such fees will apply to commercial, residential and nonresidential use:

(1)	Television up to 27-inch screen	$25
(2)	Television 28-inch to 42-inch screen	$30
(3)	Television 42-inch screen or greater	$40
(4)	Television with a wood console	$40
(5)	Projection television	$60
(6)	Microwave	$20
(7)	Computer monitor	$20

(8)	Computer keyboard	$5
(9)	Computer tower	$10
(10)	Computer printer	$15
(11)	VCR/DVD	$10
(12)	Video cameras	$10
(13)	Residential copier	$25
(14)	Audio components (receiver/tape deck / CD deck)	$10

(g) No disposal of any type will be allowed on Sundays or holidays.

(h) Violation of any section of this section shall be punishable by a fine of not less than $100 nor more than $300.

All funds generated from the operation of the transfer station shall not be expended, but shall be accounted for in a separate ledger account marked "Transfer Station Receipts," and such funds shall be in each fiscal year reserved for future appropriation. It is the intent of this section to reserve these funds for transfer station operating costs, capital expenditures at the transfer station, and future landfill closure costs, as the City Council in any fiscal year shall deem appropriate. (Ord. of 4-28-1981; Ord. of 9-28-1982; Ord. of 12-23-1986; Ord. of 3-24-1987; Ord. of 2-27-1990; Ord. of 1-14-1992; Ord. of 6-23-1992; Ord. of 11-10-1992; Ord. of 2-23-1993; Ord. of 5-25-1993; Ord. of 12-28-1993; Ord. of 2-8-1994; Ord. of 3-8-1994; Ord. of 5-24-1994; Ord. of 5-23-1995; Ord. of 10-22-1996; Ord. of 10-14-1997; Ord. of 6-9-1998; Ord. of 12-26-2001; Ord. of 6-10-2003; Ord. of 10-12-2004; Ord. of 7-11-2006; Ord. of 4-22-2008;[EN(44)] Ord. of - - 2008; Ord. of 5-26-2009)

Sec. 7-11.1. Mandatory recycling.

(a) There is hereby established a program for mandatory separation of certain recyclable materials from garbage or rubbish by all persons and businesses in the City of North Adams.

(b) For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings given herein, unless the context in which they are used clearly require a different meaning. The word "shall" is always mandatory and not merely directory:

Compost material: shall mean leaves and grass clippings.

Dwelling: shall mean every building or shelter, including but not limited to rooming houses

and temporary housing used or intended for human habitation.

Dwelling unit: shall mean the room or groups of rooms within a dwelling used or intended for use by a person, one family or household for living, sleeping, cooking and eating.

Persons: shall mean any individual, business, trust, firm, partnership, association, corporation, company, enterprise or organization of any kind.

Recyclable material: shall mean all materials listed as acceptable by the Material Recovery Facility (MRF) and any other material deemed economically and technically appropriate for recycling by the Director of Health-Sanitarian.

Waste material: All materials except compost material, recyclable material, and all materials not listed in the State Waste Bans.

(c) All persons shall separate waste materials into the following categories before depositing same for disposal at the transfer station/recycling center:

(1) Unbroken glass jars and bottles or similar products except blue and flat glass commonly known as "window glass"; dishes and crockery; aluminum and ferrous metal cans and lids, except those which contain paint or petroleum-based solvents and any pressurized aerosol cans.

(2) White and colored paper, newspaper, magazines, paper bags, paperboard boxes, except those which contained cereal or other food items, unwaxed and uncoated corrugated boxes and cardboard, and any other unsoiled paper, except envelopes containing plastic windows, wax or plastic cereal box liners and coated cardboard cartons.

(3) Yard waste and leaves.

(4) Construction and demolition debris, excluding asphalt pavement, brick and concrete.

(5) White goods.

(6) Whole tires.

(7) Metal.

(8) Wood.

(9) All other waste items.

(d) Persons shall deposit materials at the transfer station/recycling center that are separated into categories (1) and (2) as set forth in Subsection (c) into the proper containers provided for that purpose by the City of North Adams. All corrugated paper shall be flattened. All glass, aluminum and ferrous metal cans and lids shall be rinsed with water.

(e) The owner of any dwelling that contains two or more dwelling units shall be responsible for providing as many receptacles for the storage of waste materials as are sufficient to contain the accumulation before the final collection or ultimate disposal. The owner shall provide separate designated receptacles so that the occupants of the dwelling can separate waste material into the categories set forth in Subsection (c). Occupants of the dwelling shall separate waste materials into the categories set forth in Subsection (c) and deposit said waste materials into the proper designated receptacles designated for the category of waste material. Such receptacles shall be made of metal or other durable, rodent proof material and shall be located in an area reasonably accessible to the occupants.

(f) Any person, business, company or corporation engaged in the business of hauling waste materials will not knowingly dispose of waste materials at the transfer station/recycling center that have been separated into the categories set forth in Subsection (c) which should instead be recycled. Any person, business, company or corporation engaged in the business of hauling waste materials who attempts to deposit or who has subsequently been identified as having deposited at the transfer station/recycling center waste materials that have not been properly separated into the categories set forth in Subsection (c) must provide, insofar as is possible, the enforcing officer with the name and address of the person who generated the waste material. Failure to provide such names and addresses as can be reasonably ascertained shall constitute a violation of this section, and the waste material will not be allowed to be deposited at the transfer station/recycling center until such waste material has been separated into the categories set forth in Subsection (c).

(g) The provisions of this section shall be enforced by the Director of Health-Sanitarian or his/her designees and the Administrative Officer.

(h) It will be the responsibility of the person, business, company or corporation engaged in the business of hauling waste materials to ensure that their loads, whether of residential, commercial or industrial origin, comply with these requirements.

(i) Any violation of this section shall be subject to the following action:

(1) First violation: verbal and written warning to the offending person, business, company or corporation. (This subsection to become effective November 29, 1999.)

(2) Second violation: A subsequent offending load will be charged at twice the normal tipping fee. (This subsection to become effective March 27, 2000.)

(3) Third violation: The offending person, business, company or corporation will be banned from using the transfer station/recycling center for a period of two weeks. Repeated violations may result in longer term or permanent banning from the transfer station/recycling center. (This subsection to become effective October 2, 2000.)

(j) In addition to the procedures for enforcement set forth in Subsection (i) described, the provisions of this section may also be enforced by the Director of Health-Sanitarian or his/her

designees or the Administrative Officer by noncriminal complaint pursuant to City Ordinances Chapter 29 and to the provisions of General Laws, Chapter 40, Section 21D. Each day on which a violation exists shall be deemed a separate offense. For the purpose of this provision the penalty to apply in the event of a violation shall be as follows: a written warning for the first offense; $50 for the second and subsequent offenses. (Ord. of 6-27-1989; Ord. of 1-8-1991; Ord. of 12-28-1993; Ord. of 9-28-1999; Ord. of 7-11-2006)

Sec. 7-11.2. Reserved.[EN(45)]

Sec. 7-12. Cemeteries.

All municipal cemeteries shall be under the management and control of the Commissioner of Public Services. Said Commissioner of Public Services shall have the sole care, superintendence and management of all municipal cemeteries, may lay out existing municipal burial grounds or any land purchased, given or taken by eminent domain and set apart by the City for cemeteries in lots or other suitable subdivisions, with proper walks and roads, and shall set apart a suitable portion thereof as a public burial place for the use of the inhabitants of the City free of charge. He may plant, embellish, ornament and fence the same and erect therein such suitable edifices and conveniences and make such improvements as he considers convenient. He shall be responsible for the drafting of a complete set of plans showing the location of all burial lots in the municipal cemeteries and shall maintain a copy of such plans in the office of the City Clerk. (Ord. of 4-28-1981)

Sec. 7-12.1. Cemetery Trustees.

A Cemetery Board of Trustees is hereby established, consisting of three members appointed by the Mayor for terms of one, two and three years, respectively in order of appointment, and each member thereafter for a term of three years. Said Trustees shall serve without compensation and shall be residents of the City.

The Cemetery Board of Trustees shall serve as an advisory board to the Commissioner of Public Services in the furtherance of his duties under these Revised Ordinances. (Ord. of 4-28-1981)

Sec. 7-13. Records of burial lots, expenditures, etc.

The Commissioner of Public Services shall keep a true and accurate record of the sale and ownership of burial lots and all burials and all receipts and expenditures. (Ord. of 4-28-1981)

Sec. 7-14. Perpetual care funds; investment; use of funds.

All money intended for perpetual care of City cemetery lots shall be paid to the City Treasurer who shall, unless otherwise provided or directed by the donor thereof, place such sums at interest in a savings bank, trust company or national bank located in the City, or invest the same in cooperative bank shares or in other securities which are legal investments for savings banks in Massachusetts, and shall apply the accrued interest, or dividends thereon, to be credited in December in each year thereafter to the care of such lots. Such funds, moneys or securities shall be entered upon the books of the Treasurer as trust funds for the perpetual care of cemetery lots. (Ord. of 4-28-1981)

Sec. 7-15. Same - Receipt for payment.

The City Treasurer shall, when a payment for perpetual care is made, give the person making the payment an agreement or obligation in the following form:

"The City of North Adams acknowledges the receipt from_____ of the sum of _____ dollars, paid for the perpetual care and improvement of Lot No. ____ in the cemetery in said city, under the provisions of the statutes.

"The city agrees therefore, unless otherwise provided or directed by the donor thereof, to place such sum at interest in a savings bank, trust company or national bank located in the city, to invest same in cooperative bank shares or in other securities which are legal investments for savings banks, and to apply the accrued interest thereon, to be credited in December in each year thereafter, to the care of said lot.

"Should the city officer charged with the care of said lot hereunder deem it unnecessary to expend in any year the full amount of interest credited, the city shall retain the amount not needed and add the same to the principal of the fund as an accumulation, unless requested in writing by the donor to expend the full amount in that year, and interest shall be allowed on such accumulation as part of the principal." (Ord. of 4-28-1981)

Sec. 7-16. Same - Annual statement of money received.

The City Treasurer shall annually in December make a statement to the Commissioner of Public Services, showing the amount of income received from the funds which may be expended for the care of the lots. (Ord. of 4-28-1981)

Sec. 7-17. Same - Annual report of the City Treasurer.

The City Treasurer shall in his annual report make a statement showing the liability of the city in connection with perpetual care funds and securities, and in addition thereto give a detailed statement of each deposit made under the provisions of this chapter during the year. (Ord. of 4-28-1981)

Sec. 7-18. Driving vehicles in cemeteries.

No person shall drive or cause to be driven any automobile or motor vehicle of any kind in or through any public cemetery or burial grounds, except in compliance with the rules and regulations prescribed by the Commissioner of Public Services. (Ord. of 4-28-1981)

Sec. 7-19. Price of lots and perpetual care.

The Commissioner of Public Services shall sell lots in the name of the City and perpetual care for the same on a basis of the following schedule of prices:

Resident

Type Lot	Price of Lot	Perpetual Care	Total Price
Single grave	$250	$25	$275
2 graves	$500	$50	$550
4 graves	$1,000	$100	$1,100
8 graves	$2,000	$200	$2,200
12 graves	$3,000	$300	$3,300

Nonresident

Type Lot	Price of Lot	Perpetual Care	Total Price
Single grave	$400	$100	$500
2 graves	$800	$200	$1,000
4 graves	$1,600	$400	$2,000
8 graves	$3,200	$800	$4,000

(Ord. of 4-28-1981; Ord. of 7-9-1991; Ord. of 11-25-1997; Ord. of 5-8-2007)

Sec. 7-19.1. Resident to nonresident transfer fee.

Any cemetery lot transferred to a nonresident by a resident shall be subject to a fee in accordance with the following schedule:

Type Lot	Price of Lot	Perpetual Care	Total Price
Single Grave	$ 260.00	$ 60.00	$ 320.00

2 Graves	520.00	120.00	640.00
4 Graves	1,040.00	240.00	1,280.00
8 Graves	2,080.00	480.00	2,560.00
12 Graves	3,120.00	720.00	3,840.00

(Ord. of 9-24-1991)

Sec. 7-20. Parks and Recreation Commission - Established.

A parks and recreation commission is hereby established, and shall consist of seven members, who shall be residents of the city. (Ord. of 4-28-1981; Ord. of 2-22-1983)

Sec. 7-21. Same - Appointment; terms of office.

The Mayor shall, in the month of April, in every year, appoint a member of the Commission to serve for a term of five years, beginning on the first day of May. The terms of appointment shall be arranged so that beginning with the year 1983, with the increase in Commission membership from five to seven members, the term of three members shall expire on the first day of May in the year 1988 and every fifth year thereafter. The terms of the remaining members will be so arranged so that not more than one (1) member shall expire each year beginning with the year 1984. (Ord. of 4-28-1981; Ord. of 2-22-1983)

Sec. 7-22. Same--Officers; quorum; rules and regulations.

The parks and recreation commission shall annually meet and organize by choosing a chairman and secretary from among their own number, and a majority of the commission, shall constitute a quorum for the transaction of business. The commission may make such rules and regulations for its own government and in relation to its officers as it may deem expedient and proper. (Ord. of 4-28-1981)

Sec. 7-23. Same--Commission's duties.

The parks and recreation commission shall serve as an advisory commission to the commissioner of public services, or other person in charge of the parks and recreation facilities of the city, relative to programs, maintenance and administration of the parks, recreation facilities of the city.

It shall be the duty of the parks and recreation commission to plan all facilities as are deemed appropriate and practical to afford to the people opportunity for the employment of their leisure time in wholesome community recreation and activity, and to organize and supervise whatever provisions are now existing or which are hereafter made by the city for park purposes, for

swimming and beaches, indoor and outdoor recreation, social centers, music, dances and all similar and related public park and recreational activities. (Ord. of 4-28-81; Ord. of 3-27-1990)

Sec. 7-24. Parks and recreation director.

The mayor may appoint an executive director of parks and recreation, who shall be compensated according to the compensation plan. Said executive director shall meet with the parks and recreation commission, and shall perform such duties as prescribed by the commissioner of public services. (Ord. of 4-28-1981)

Sec. 7-25. Land jurisdiction of parks and recreation commission.

Subject to section 7-23 of these [Revised] Ordinances, the parks and recreation commission shall have general care and charge of the Veterans Memorial Drive, Colegrove Park, Kemps Park, Noel Field, Greylock Field, and all playgrounds not under the control of the school committee which are used for the summer playground program of the commission shall be under the control, general care and charge of the commission during the summer vacation period when school is not in session. (Ord. of 4-28-1981; Ord. of 3-27-1990)

Sec. 7-26. Property on which recreational activities conducted.

The parks and recreation commission may conduct its activities on property under its control, on other public property under the control of any other public officers or boards, with the consent of such officers or boards, or on private property with the consent of the owners. (Ord. of 4-28-81)

Sec. 7-27. Rules for use of park and recreation facilities.

(1) *Erection of structures.* No person shall construct or erect any building or structure less than six hundred (600) square feet in area of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permission of the commissioner of public services.

(2) *Permits for sports, games and use of premises.* Permits for sports or games or use of public parks, recreation areas and playgrounds under the jurisdiction of the park and recreation commission may be issued by the commissioners.

Permits for such sports, games or for the use thereof are not transferable and are valid only when the game, contest or use is to be exercised between the teams specified thereon, or the

persons permitted the use thereof.

Games, sports or the use of the premises authorized under permits must be conducted between the hours specified on the permit and such games, sports or use must be started sufficiently early to allow for their termination within the specified time. The commission may prescribe other conditions in such permits.

The fee or charge, if any, for use of land under the jurisdiction of the commission shall be determined by the commission.

(3) *Damage generally, etc., to property.* No person shall willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts of appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal, under the jurisdiction of the park and recreation commission.

(4) *Removal or excavation of natural resources generally.* No person shall dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(5) *Injuring, etc., trees, shrubs, lawns, etc.; climbing walking, etc., in unauthorized places.* No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant under the jurisdiction of the park and recreation commission. Nor shall any person attach any rope, wire, or other contrivance to any such tree or plant. No person shall dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any such park or recreation area. No person shall climb any tree or walk, stand or sit upon monuments, vases, fountains, railings or fences under the jurisdiction of the park and recreation commission or upon any other such property not designated or customarily used for such purposes.

(6) *Maintenance of restrooms and washrooms.* No person shall fail to cooperate in maintaining restrooms and washrooms under the jurisdiction of the park and recreation commission in a neat and sanitary condition.

(7) *Reserved.*

(8) *Reserved.*

(9) *Disorderly conduct.* No person shall behave himself in a disorderly manner on any land under the jurisdiction of the park and recreation commission. The commission or its authorized agents, assistants or employees has the right to bar any person guilty of disorderly conduct on the land under the jurisdiction of the commission for such length of time as the commission deems

reasonable and proper.

(10) *Traffic regulations.* No person in a park, playground or recreational area shall:

(a) *State motor and vehicle laws apply.* Fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this section and Chapter 13 and other ordinances.

(b) *Enforcement.* Fail to obey all traffic officers and recreational employees, such persons being hereby authorized and instructed to direct traffic in park and recreational areas.

(c) *Obedience to traffic signs and markings.* Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and to safeguard life and property.

(d) *Speed of vehicles.* Ride or drive a vehicle at a rate of speed exceeding fifteen (15) miles an hour, except as otherwise designated by posted signs.

(e) *Operation confined to roads and parking areas.* Drive any vehicle on any area except the roads, or parking area, or such other areas as may be specifically designated by the park and recreation commission or its duly authorized agents, assistants or employees.

(f) *Parking.* Park a vehicle in other than an established or designated parking area in a park, playground or recreational area, and such use shall be in accordance with the posted directions thereat and with the instructions of any officer or recreational employee who may be present.

(11) *Bathing, swimming and boating.*

(a) *Designated areas.* No person shall swim, bathe or wade in any water except in such places designated by the park and recreation commission therefor.

(b) *Hours.* No person shall frequent or use any water areas under the jurisdiction of the park and recreation commission for swimming or bathing or congregate thereat; except between such hours of the day and on such days as shall be designated by the commission.

(c) *Costume.* No person shall allow himself to be so covered with a bathing suit as to indecently expose his person or call forth merited criticism.

(d) *Bathhouses.* No person shall dress or undress on any beach or in any vehicle, toilet or other place, except in such bathhouses or structures as may be provided for that purpose.

(e) *Boating.* No person shall bring into or operate any boat, raft or other watercraft, whether motor-powered or not, upon any waters under the jurisdiction of the park and recreation

commission, except at places designated for same by the commission.

(f) *Air-inflated objects.* No person shall bring into or use upon any waters any air-inflated object except at places designated for same by the commission.

(12) *Picnic areas and picnickers.* No person shall:

(a) *Regulated.* Picnic or lunch in a place other than those designated for that purpose. Officers or recreational personnel shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(b) *Tables,* benches and fireplaces. The use of individual fireplaces together with tables and benches shall follow the rule of, "first come, first served," and the use of any portion of the picnic area for the purpose of holding picnics to the exclusion of other persons is hereby prohibited.

(c) *Duty of picnicker.* No person using the picnic area shall leave same before completely extinguishing any fire and before all trash, waste and refuse are discarded, boxes, paper, cans, bottles and garbage are properly disposed of in disposal receptacles provided therefor. If no such receptacles are available, the refuse and trash shall be carried away from the area to be properly disposed of elsewhere.

(13) *Intoxicating beverages.* No person shall bring into, expose or consume any intoxicating beverages on any area where same is prohibited by the park and recreation commission.

(14) *Gambling.* Gambling in any and all forms is prohibited on all lands under the jurisdiction of the park and recreation commission.

(15) *Sale of food, beverages, goods, wares and merchandise.* No person shall sell or offer for sale on any park, playground or recreational area, food, beverages, goods, wares or merchandise, except as provided in section 7-27 and in the following paragraph.

The park and recreation commission may provide concession booths or stands on lands under its jurisdiction, to sell food, beverages, goods, wares or merchandise that are incidental to the use thereof, and may lease for a period of time not to exceed. three (3) years, to a person submitting the highest bid therefor, after inviting bids by public advertisement, such concession booths or stands. (Ord. of 4-28-1981; Ord. of 6-14-88)

Sec. 7-28. Historic Valley Campground.

The Commissioner of Public Services or his designee or the Mayor's designee shall have jurisdiction over the Historic Valley Park Campground, subject to the Windsor Lake Recreation

Commission pursuant to section 7-29.4 of these Revised Ordinances. (Ord. of 3-23-2010)

Sec. 7-29. Park manager.

The Commissioner of Public Services or his designee or the Mayor's designee shall appoint a part-time park manager who shall be compensated according to the compensation plan. (Ord. of 4-28-1981; Ord. of 3-23-2010)

Sec. 7-29.1. Windsor Lake Recreation Commission--Established.

A Windsor Lake Recreation Commission is hereby established, and shall consist of five members, who shall be residents of the City. (Ord. of 3-27-1990; Ord. of 3-23-2010)

Sec. 7-29.2. Same--Appointment-; terms of office; compensation.

The Mayor, shall, in the month of April, for the initial appointments to said Commission, appoint one member to serve one year; one member to serve two years; and one member to serve three years; one member to serve four years; and one member to serve five years. Thereafter, as the terms of office expire, the Mayor shall appoint successors for five-year terms. Such members shall serve without compensation. (Ord. of 3-27-1990; Ord. of 3-23-2010)

See. 7-29.3. Same--Officers; quorum; rules and regulations.

The Commission shall annually meet in the month of April and organize by choosing a Chairman and Secretary from among their own number, and a majority of the Commission shall constitute a quorum for the transaction of business. (Ord. of 3-27-1990)

See. 7-29.4. Same--Jurisdiction;]powers and duties generally.

Subject to the provisions of this section, the Windsor Lake Recreation Commission shall have general care and charge of the Windsor Lake Recreation Area and the Historic Valley Park Campground.

The Commission shall serve as an advisory commission to the Commissioner of Public Services, or his designee or the Mayor's designee in charge of the parks and recreation facilities of the City, relative to programs, maintenance, and administration of Windsor Lake and the Historic Valley Park Campground. The Commission may adopt such rules and regulations, subject to the approval of the Commissioner of Public Services, as it deems necessary for the

proper maintenance and operation of Windsor Lake and the Historic Valley Park Campground.

It shall be the duty of the Commission to plan and supervise whatever provisions are made by the City for park purposes, swimming and beaches, outdoor recreation and all similar and related public park and recreational activities at Windsor Lake and the Historic Valley Park Campground. (Ord. of 3-27-1990; Ord. of 3-23-2010)

Sec. 7-29.5. Same--Annual report.

The commission shall make an annual report to the mayor containing a statement of the condition of the land under its control or supervision, together with any information or suggestions which it may deem important. (Ord. of 3-27-1990)

Sec. 7-30. Engineering division--Established.

An engineering division is hereby established. The mayor may appoint such employees of the engineering division as provided by the classification plan. (Ord. of 4-28-1981)

Sec. 7-31. Same--Duties generally.

The commissioner of public services shall designate one employee of the division to exercise the general supervision of all matters within the division. He shall be consulted in relation to public improvements of every kind where the advice of a qualified engineer would be of service. He shall have charge of all plans of streets, drains, sewers and structures of every kind, not especially belonging to other departments, and shall keep the same properly classified and indexed. He shall cause to be made record plans of all sewers, drains, water pipes and other structures under his charge laid or built by the city; and he may make such rules and regulations concerning the taking of plans from his office as he may deem necessary to ensure their safety. He shall perform all engineering services and make all examinations and prepare all statements, plans and specifications relating to work under his charge which any department may need. He shall make such surveys, plans, proper estimates and descriptions as may be required by the mayor or the commissioner of public services, and he shall perform all other such services for the city which properly come under the direction of a qualified engineer as may be required of him by the mayor or the commissioner of public services. (Ord. of 4-28-1981)

Sec. 7-32. Same--Duty to assist city solicitor.

The engineering division shall assist the city solicitor as far as possible in defending the city against suits and claims brought against it for damages sustained by reason of any defect or want

of repair in any public way, or for any other cause whatever. (Ord. of 4-28-1981)

Sec. 7-33. Same--Duty to inform persons about street lines and grades.

The engineering division shall give to all applicants, as far as the files and records of his [its] office will permit, any information as to the lines and grades of any public street or way. (Ord. of 4-28-1981)

Sec. 7-34. Veterans' division established.

There shall be a veterans' division, which shall administer the disbursement of state and military aid and soldiers' relief (Ord. of 4-28-1981)

Sec. 7-35. Veterans' agent to be head of division; Qualifications.

The veterans' division shall be under the supervision and control of an agent who shall be a veteran. (Ord. of 4-28-1981)

Sec. 7-36. Duties of veterans' division generally.

The veterans' division shall exercise the powers and perform the duties as provided and set forth by the General Laws, and shall perform such other duties as the mayor shall from time to time direct. He [It] shall investigate all petitions for veterans' service and act upon the same in accordance with law. (Ord. of 4-28-1981)

Sec. 7-37. Library inclusion.

A library division is hereby established, which division shall operate in accordance with sections 11-1 through 11-5, inclusive, of these Revised Ordinances. (Ord. of 4-28-1981)

Sec. 7-38. Council for the aging.

Any employees of the city engaged in activities concerning the council for the aging shall be under the direction, control and supervision of the commissioner of public services. (Ord. of 4-28-1981)

Sec. 7-39. Severability clause.

In the event that; any portion of this chapter is declared null and void by a court of competent jurisdiction, such invalidity shall not affect any remaining portions. (Ord. of 4-28-81)

CHAPTER 8. DEPARTMENT OF PUBLIC SAFETY. EN(46)

Sec. 8-1. Establishment of department.

A department of public safety is hereby established. Said department shall be composed of a police division, a fire division, a civil defense division, a wire and alarm division, a public buildings division, an inspection division and the city physician. (Ord. of 4-28-1981)

Sec. 8-2. Commissioner of public safety; position established.

There shall be a commissioner of public safety, who shall be appointed by the mayor, for a five-year term. The commissioner of public safety shall be compensated according to the compensation plan. Said commissioner of public safety shall not be subject to the provisions of Chapter 31 of the General Laws. (Ord. of 4-28-1981)

Sec. 8-3. Function of department.

It shall be the function of the department to provide public safety services as authorized in accordance with law. (Ord. of 4-28-1981)

Sec. 8-4. Head of department.

The department shall be headed by the commissioner of public safety, to be appointed by the mayor for a five-year term. (Ord. of 4-28-1981)

Sec. 8-5. Powers of commissioner as chief.

The commissioner of public safety shall also, except as otherwise provided in these Revised Ordinances, have all of the powers and be subject to the duties of the positions of fire chief and police chief as referenced, mentioned or cited elsewhere in these Revised Ordinances or in the

General or Special Laws of the Commonwealth of Massachusetts; but said position shall not be governed by Chapter 31 of the General Laws. (Ord. of 4-28-1981)

Sec. 8-6. Reference elsewhere.

Any reference to fire chief or police chief elsewhere in these Revised Ordinances shall be deemed to mean the commissioner of public safety as herein provided. (Ord. of 4-28-1981)

Sec. 8-7. Power of commissioner of public safety generally.

(a) The commissioner of public safety shall have all of the powers conferred by the general and special laws relative to the heads of police and fire departments.

(b) The commissioner of public safety shall have all of the powers conferred by the Revised Ordinances of the City of North Adams on police chief and fire chief.

(c) The commissioner of public safety shall have all of the power conferred by all rules and regulations of the police department and the fire department on the fire chief and the police chief. (Ord. of 4-28-1981)

Sec. 8-8. Reserved. [EN(47)]

Sec. 8-9. Rules and regulations.

The commissioner, with the approval of the mayor, shall promulgate rules and regulations for the department, its divisions, officers and employees; provided, however, that no rules and regulations for the police division and the fire division shall be placed in force without the prior consent of the city council. Said regulations and rules shall govern the operation, administration and management of the department, and the conduct of its employees. The Revised Ordinances shall apply, regulations and rules to the contrary notwithstanding. (Ord. of 4-28-1981)

Sec. 8-10. Assistance to the commissioner of public safety.

All firefighters, police officers and other personnel of the department shall perform such duties as the commissioner shall direct and shall be subject to his direction and control. Every employee shall assist. (Ord. of 4-28-1981)

Sec. 8-11. Duties and responsibilities of commissioner of public safety.

It shall be the duty and responsibility of the commissioner of public safety, subject to the mayor, to direct, control and supervise the fire division, the police division, the civil defense division, the wire and alarm division, the public buildings division, the inspection division and the city physician. (Ord. of 4-28-1981)

Sec. 8-12. Fire division--Establishment.

A fire division is hereby established, and shall consist of such personnel as the mayor and city council shall authorize by appropriation. It shall be the function of the division to provide firefighting services.

(a) An officer or other permanent member of the fire division shall be permitted to engage in other business or occupation provided that such activity does not interfere with the proper discharge of his duties and provided that such activity does not impair his independence of judgment in the exercise of his official duties and provided that such activity does not constitute a violation of Massachusetts General Laws, Annotated, Chapter 268A, as amended.

(b) Any such employee who seeks to engage in such activity shall submit a written statement to the commissioner of public safety setting forth the nature and extent of such activity. (Ord. of 4-28-1981)

Sec. 8-12.1. Same--Director.

There shall be a fire division director, who shall be appointed by the mayor for a three-year term. The fire division director shall be compensated according to the compensation plan. The fire division director shall perform such duties and have such powers as the commissioner of public safety shall direct. In the absence of the commissioner of public safety, the fire division director, with the approval of the mayor, may be designated to be in charge of the department of public safety. Said fire division director shall not be subject to the provisions of Chapter 31 of the General Laws. (Ord. of 11-27-1984)

Sec. 8-13. Same--Senior officer.

The fire division director, with the approval of the mayor, may designate from time to time as needed, one of the ranking officers of the fire division to perform such duties and have such powers as the fire division director, in the absence of the fire division director. (Ord. of 4-28-1981; Ord. of 11-27-1984)

Sec. 8-14. Same--Captains to keep record of their respective companies.

It shall be the duty of the officers of the division to preserve order and discipline in the division and require and enforce compliance with the rules and regulations of the division, and to report to the commissioner of public safety forthwith and in writing, the name of each and every member who shall be guilty of any neglect of duty or disobedience of orders. (Ord. of 4-28-1981)

Sec. 8-15. Same--Qualification of members.

No person, other than one presently on the eligible civil service list, shall be a member of the [fire] division who does not have a valid license to drive motor vehicles issued by the registrar of motor vehicles of the commonwealth, and who is not a resident to the city and a citizen of the United States.

When any officer or member of the [fire] division ceases to be a resident of the city, he shall resign from the division, and failure so to resign shall be sufficient cause for his removal. Nothing herein contained shall affect the enforcement of the provisions of General Laws, Chapter 31. (Ord. of 4-28-1981)

Sec. 8-16. Same--Control at fires.

In the absence of the commissioner of public safety, the officer in charge at fire division headquarters shall have sole and absolute authority until the arrival of the commissioner, unless otherwise ordered by the commissioner. (Ord. of 4-28-1981)

Sec. 8-17. Same--Calls for aid from other cities.

The commissioner of public safety or officer in charge of the fire division, with the approval of the mayor, is hereby authorized and may order officers, members and apparatus of the division to go to the aid of another city, town or fire district in this commonwealth or in any adjoining state in extinguishing fires therein; when, in the judgment of the commissioner of public safety or officer in charge, conditions warrant such action. (Ord. of 4-28-1981)

Sec. 8-18. Demolishing buildings to prevent spread of fire.

Whenever it shall be determined at any fire by the officer in charge that it is necessary to pull down or demolish any building in order to prevent the spreading of fire, the same may be done by his order in accordance with the statute in such case made and provided. (Ord. of 4-28-1981)

Sec. 8-19. Uniforms of fire division.

All members of the fire division, while on duty, shall wear such uniforms, hat and badge as the commissioner shall specify.

Upon the permanent appointment of a member to the fire division, the city shall provide such member with a dress uniform as the commissioner shall specify. (Ord. of 4-28-81)

Sec. 8-20. Police division--Establishment.

A police division is hereby established, and shall consist of such personnel as the mayor and city council shall authorize by appropriation. It shall be the function of the division to provide police services.

(a) An officer or other permanent member of the police division shall be permitted to engage in other business or occupation provided that such activity does not interfere with the proper discharge of his duties and provided that such activity does not impair his independence of judgment in the exercise of his official duties and provided that such activity does not constitute a violation of Massachusetts General laws, Annotated, Chapter 268A as amended.

(b) Any such employee who seeks to engage in such activity shall submit a written statement to the commissioner of public safety setting forth the nature and extent of such activity. (Ord. of 4-28-1981)

Sec. 8-20.1. Same--Director.

There shall be a police division director, who shall be appointed by the mayor for a three-year term. The police division director shall be compensated according to the compensation plan. The police division director shall perform such duties and have such powers as the commissioner of public safety shall direct. In the absence of the commissioner of public safety, the police division director, with the approval of the mayor, may be designated to be in charge of the department of public safety. Said police division director shall not be subject to the provisions of Chapter 31 of the General Laws. (Ord. of 11-27-1984)

Sec. 8-21. Same--Senior officer.

The police division director, with the approval of the mayor, may designate, from time to time as needed, one of the ranking officers of the police division to perform such duties and have such powers as the police division director, in the absence of the police division director. (Ord. of

4-28-1981; Ord. of 11-27-1984)

Sec. 8-21.1. Police aid to other cities and towns.

The police, with approval of the mayor, is hereby authorized to go to aid another city or town at the request of such city or town in the suppression of riots or other forms of violence therein. (Ord. of 4-28-1981)

Sec. 8-22. Qualifications of members of police.

No person shall be a member of the police division who is less than nineteen (19) years of age. Members of the division may reside outside the city; provided that they reside within the commonwealth and within ten (10) miles of the limits of such city. Members of the division must be citizens of the United States. (Ord. of 4-28-1981)

Sec. 8-23. Special police officers.

The mayor may, from time to time, appoint such number of special police officers or officers for special duty, to serve with or without pay, as he may determine, and may limit their time and place of service. They shall be certified as to fitness by the commissioner of public safety. The persons thus appointed shall be subject to the provisions of law and of the city ordinances so far as the same are applicable and shall have all the powers of a police officer, as limited by appointment.

(a) Said special police officers shall exercise police powers only during hours while employed in the endeavor for which the special police appointment was obtained.

(b) Said special police officer shall not possess, carry or utilize a weapon in his capacity as a special police officer without first having obtained written approval for the weapon from the commissioner of public safety.

(c) No special police powers shall be exercised by a person appointed hereunder for the benefit of a private person unless said private person shall have, as a condition precedent, deposited with the city clerk a certificate of liability insurance, naming the City of North Adams as an additional insured, in an amount approved by the city solicitor. (Ord. of 4-28-1981)

Sec. 8-24. School traffic supervisors.

The mayor may appoint school traffic supervisors, male or female, to be paid when actually employed. Their compensation shall be determined by the city council. These supervisors shall

not be empowered to enforce the provisions of Chapter 90 of the General Laws or of Chapter 13 of this Code or any other city ordinance relating to the operation, standing or use of motor vehicles. Their sole duty and responsibility shall be to stop traffic to allow school children to cross streets in safety. These supervisors shall be known as the North Adams school traffic supervisors, shall obey all lawful orders of the commissioner of public safety and [shall] be subject to the rules and regulations governing them. Their hours and tours of duty shall be prescribed by the commissioner of public safety, and they shall be furnished the following equipment: Caps, white traffic belts, badges, whistles and gloves. (Ord. of 4-28-1981)

Sec. 8-25. Descriptive list of persons arrested.

The commissioner of public safety shall keep or cause to be kept at the police station a complete descriptive list of each person arrested and brought to the station, giving his name, nativity, age, height, complexion, color of hair and eyes, the amount of money he may have in his possession, his present residence and the offense for which he is arrested, all of which shall be entered in a book to be furnished by the city; and the same shall be delivered by the commissioner of public safety to his successor in office. (Ord. of 4-28-1981)

Sec. 8-26. Police officers to report defects, etc., in streets, etc., and investigate and report accidents.

It shall be the duty of each and every police officer to take notice of all leaking water pipes, all nuisances, defects and obstructions in the streets, bridges, sidewalks, lanes, alleys, courts, public places and squares of the city, and to report the same to the commissioner of public services. It shall also be the duty of each and every police officer immediately to investigate any accident or other occurrence coming to his notice which might involve liability to the city, to procure the names of all witnesses thereto, and at once to report the same with all information obtained to the commissioner of public safety, who shall forthwith transmit such information to the city solicitor. (Ord. of 4-28-1981)

Sec. 8-27. Duty of police to assist city solicitor in obtaining evidence, etc., in cases involving city.

To assist the city solicitor in obtaining evidence, etc., in cases involving the city, the commissioner of public safety, at the request of the city solicitor, shall designate one or more of the officers of the police division to assist the city solicitor in obtaining evidence, summoning witnesses and performing such other service as may be desirable in the preparation for trial of cases in which the city is interested, or in the investigation of claims against the city. Such services shall be rendered without additional compensation. (Ord. of 4-28-1981)

Sec. 8-28. Police to cooperate with fire division at fires.

The members of the police division shall, in such manner as the commissioner of public safety may require, aid the fire division by clearing the streets or grounds in the immediate vicinity of a fire, or performing other police service, so that the members of the fire division may not be hindered or obstructed in the performance of their duties. (Ord. of 4-28-1981)

Sec. 8-29. Uniforms of police division.

The members of the [police] division shall be uniformed and equipped in such a manner as the commissioner of public safety shall specify. (Ord. of 4-28-1981)

Sec. 8-30. Division of civil defense.

There is hereby established a division of civil defense, hereinafter called the division. It shall be the function of the division to have charge of civil defense as defined in Section 1, Chapter 639, Acts of 1950 and to perform civil defense functions as authorized or directed by such chapter or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the governor under Chapter 639.

The director may, with approval of the commissioner within the limits of the amount appropriated therefor, appoint such experts, clerks and other assistants as the work of the division may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purposes of Chapter 639, Acts of 1950.

The director shall also have authority with approval of the commissioner to appoint district coordinators and may accept and may receive, with approval of the mayor on behalf of the city, services, equipment, supplies, materials or funds, by way of gift or grant, for purposes of civil defense, offered by the federal government or any agency or officer thereof or any person, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans. (Ord. of 4-28-1981)

Sec. 8-31. Director of civil defense.

The division shall be under the direction of a director of civil defense, herein called the director, who shall be appointed as prescribed by law. The director shall have direct responsibility for the organization, administration and operation of the division subject to the direction and control of the commissioner of public safety. (Ord. of 4-28-1981)

Sec. 8-32. Duration of section 8-30.

Section 8-30 shall remain in force during the effective period of Chapter 639, Acts of 1950 and any act in amendment or continuation thereof or substitution therefor. (Ord. of 4-28-1981)

Sec. 8-33. References to related legislative acts.

All references to Chapter 639, Acts of 1950, as now in force, shall be applicable to any act or acts in amendment or continuation of or substitution for such Chapter 639. (Ord. of 4-28-1981)

Sec. 8-34. Wire and alarm division; establishment.

A division of wire and alarm is hereby established, which division shall be responsible for enforcement of the 1981 Massachusetts Electrical Code, Form FPR-11, and for maintenance of fire alarm and police signal system. (Ord. of 4-28-1981)

Sec. 8-35. Inspector of wires; appointment; duties generally.

The mayor may appoint an inspector of wires, who shall also be superintendent of the fire alarm and police signal system, and who shall be under the direction and control of the commissioner of public safety. (Ord. of 4-28-1981)

Sec. 8-36. Assistant inspector of wires.

The mayor may appoint an assistant inspector of wires who shall assist the inspector of wires in the performance of duties and who shall perform the duties of that office and shall have the power thereof in the absence of the inspector of wires. (Ord. of 4-28-1981)

Sec. 8-37. Devotion of wire inspectors to duty.

The inspector of wires and the assistant inspector of wires shall give their whole time to the city. (Ord. of 4-28-1981)

Sec. 8-38. Wiring plans for buildings--To be filed with inspector of wires.

No person shall construct within a building a wiring system designed to carry an electric light, heat or power current, until the owner or person constructing the same has filed with the

inspector of wires a plan thereof showing the whole wiring system within the building and the points of connection with outside circuits. No person shall add to or alter within a building any portion of wiring system designed to carry an electric light, heat or power current, except to make necessary repairs, until the owner or person constructing the same has filed with the inspector of wires a plan thereof and of such portions of the whole wiring system within the building and the points of connection with outside circuits as the inspector of wires shall require. (Ord. of 4-28-1981)

Sec. 8-39. Same--Approval or rejection; right of appeal.

No person shall commence the work provided for in the wiring plans, until they are approved in writing by the inspector of wires. Plans and specifications shall be approved or rejected within one week of the time of filing. The failure of the inspector of wires to approve such plans or specifications within one week after filing shall be tantamount to a denial of the application. In case any application is denied, the applicant may, within one week thereafter, appeal the denial to the commissioner of public safety.

After a plan has been approved, no alteration therein shall be allowed, except on a new application and permits as provided in this section. (Ord. of 4-28-1981)

Sec. 8-40. Concealment of wires until after inspection prohibited.

No wires specified in this chapter shall be covered or concealed from view until approved by the inspector of wires, who shall examine the same within three (3) weekdays, Sundays and legal holidays excepted, after notice that they are ready for inspection. No electric current shall be turned into such wires until they have been approved. (Ord. of 4-28-1981)

Sec. 8-41. Public buildings, inspections division.

The division of public buildings and building inspection is hereby established, consisting of a superintendent who shall have control and management of the division and shall also serve as building inspector. The superintendent of public buildings shall be appointed by the mayor. The term of the superintendent shall be coterminous with the term of the mayor. (Ord. of 4-28-1981)

Sec. 8-42. Superintendent of public buildings and building inspector--Powers and duties generally.

The superintendent of public buildings and building inspector shall have supervision, direction and control of the construction, alteration and repair of public buildings, except school buildings

which shall remain under the control of the school committee.

He shall administer and enforce zoning regulations as required by statutes or ordinances. He shall also be the inspector of buildings and have control over the enforcement of the regulations relating to and the direction, repair and construction of buildings. The building inspector shall receive applications required by the building code, issue permits and furnish the prescribed certificates. He shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction meets the requirement of law. He shall enforce all laws relating to the construction, alteration, repair, removal, demolition, occupance, location and maintenance of buildings and structures, except as may be otherwise provided for. He shall, when requested by the Mayor or City Council, or when the interests of the City so require, make investigations in connection with matters referred to in the Building Code and render written reports on the same. For the purpose of enforcing compliance with laws, to remove illegal or unsafe conditions or to require adequate exit facilities in existing buildings and structures, he shall issue such notices or orders as may be necessary. He shall perform such other duties as may by statute or ordinance be required of him, and may perform such other duties as are within the discretion of an Inspector of Buildings. (Ord. of 4-28-1981)

Sec. 8-43. Same - Devotion to duty.

The Superintendent of Public Buildings and Building Inspector shall devote his entire time to the care and maintenance of public buildings, enforcement of zoning regulations and to the inspection of buildings and the enforcement of all regulations pertaining thereto. (Ord. of 4-28-1981)

Sec. 8-43.1. Same - Charges.

The Building Inspector shall charge the following fees for the following permits issued:

(1) New residential building, including additions: $0.25 per square foot.

Minimum fee: $20.

Maximum fee: $1,000.

(2) New accessory building (garages, barns, storage buildings, decks, etc.): $0.15 per square foot.

Minimum fee: $15.

Maximum fee: $500.

(3) New commercial/industrial building: $0.30 per square foot.

Minimum fee: $25.

Maximum fee: $8,000.

(4) New educational/religious building: $0.20 per square foot.

Minimum fee: $20.

Maximum fee: $7,500.

(5) Residential renovations: $6 per $1,000

Minimum fee: $15.

Maximum fee: $1,000.

Nonresidential renovations: $8 per $1,000

(Commercial and industrial)

Minimum fee: $25.

Maximum fee: $8,000.

(6) Demolition

Under 500 square feet: $50.

Over 500 square feet: $75.

(7) New elevator installations: $50 per elevator.

(8) Wood stoves: $20 per stove.

(9) Plumbing permits: $25 per application, plus $5 per fixture, not to exceed $500.

(10) Gas permits: $25 per application plus $10 per fixture, not to exceed $500.

(11) Sign permits: $1.25 per square foot under 100 square feet; an additional $2.25 per square feet over 100 square feet.

(12) Aboveground pools: $25

Inground pools: $0.20 per square feet of pool; minimum of $25.

(13) Zoning Board of Appeals
(variance and special permits): $125.

(14) Zoning permits (fences, sheds, temporary signs): $20.

(15) Certificates of annual inspection: $50.

Reinspection: $25.

Certificates of Inspection (multifamily dwellings): $100.

Reinspection: $35.

(16) Certificate of use and occupancy: $25.

(Ord. of 9-28-1982; Ord. of 5-8-1984; Ord. of 8-28-1984; Ord. of 7-9-1991; Ord. of 11-14-2000; Ord. No. 6-10-2003; Ord. of 2-22-2005)

Sec. 8-44. Same - Records.

The Superintendent of Public Buildings and Building Inspector shall keep a detailed record of all the work performed by him. (Ord. of 4-28-1981)

Sec. 8-45. Inspection Division; establishment.

The Division of Inspection is hereby established, consisting of a Housing Code Inspector, a Plumbing Inspector and an Inspector of Weights and Measures. (Ord. of 4-28-1981)

Sec. 8-46. Housing Code Inspector.

The position of Housing Code Inspector is hereby created to inspect any and all housing in the City in order that such housing comply with the minimum standards of fitness for human habitation and the sanitary code of the state; and that such Housing Code Inspector shall have the power of enforcement of the provisions of such code. Said Housing Code Inspector shall serve under the direction of the Commissioner of Public Safety. He shall be compensated according to the compensation plan and shall be subject to the Board of Health as provided in Massachusetts General Law, Chapter 111. (Ord. of 4-28-1981)

Sec. 8-47. Rental dwelling units.

Whenever a rental dwelling unit becomes vacant, the owner, managing agent or person in charge thereof shall have it inspected by the Housing Code Inspector, prior to its being reoccupied, to determine whether or not it is in compliance with Chapter II of the State Sanitary Code, as amended, entitled "Minimum Standards of Fitness for Human Habitation." If the

Housing Code Inspector finds that it does comply with the provisions of the State Sanitary Code, he shall issue a certificate of compliance for such dwelling unit. If he finds that it is not in compliance, he shall specify in writing the specific grounds of noncompliance, and such dwelling unit shall not be reoccupied until such defects have been corrected to the satisfaction of the Housing Code Inspector and he has issued a certificate of compliance.

If the Housing Code Inspector fails to make an inspection of a rental dwelling unit within five (5) working days from the date of the written request for such an inspection by the owner, managing agent or person in charge thereof, such rental dwelling unit may be rented the same as if a certificate of compliance had been issued, and such owner, managing agent or person in charge thereof shall not be in violation of this section for so doing. (Ord. of 4-28-1981; Ord. of 2-9-1999; Ord. of 5-8-2007)

Sec. 8-48. Plumbing Inspector--Appointment; powers and duties.

The Mayor shall appoint an Inspector of Plumbing in accordance with and subject to the provisions of General Laws, Chapter 142. The Inspector of Plumbing shall be sworn to the faithful performance of his duties. He shall have the supervision of all plumbing in accordance with the terms and provisions of the Massachusetts State Plumbing Code and all the rules and regulations thereof and he shall have the right, power and authority in accordance therewith to enter any and all buildings and to examine and test the plumbing therein at reasonable times. He shall, at all times so far as his power and authority will permit, enforce compliance with the provisions of the statutes of the commonwealth and the Plumbing Code. He shall immediately report all violations of the Plumbing Code and applicable statutes to the Building Inspector, and he shall perform such other appropriate duties as may be required by such Building Inspector. He shall also investigate complaints relating to plumbing as may be required by the Board of Health. (Ord. of 4-28-1981)

Sec. 8-49. Same--Duties as Inspector of Gas Piping, etc.

The Inspector of Plumbing shall also be the Inspector of Gas Piping and Gas Appliances, as provided for under Chapter 143 of the General Laws, and have the control and the enforcement of the rules and regulations relating to the installation of gas piping and gas appliances established from time to time by a board in the State Department of Public Safety. (Ord. of 4-28-1981)

Sec. 8-50. Same--Devotion of entire time to duties.

The Inspector of Plumbing shall devote his entire time to the inspection of plumbing and to such other appropriate duties as may be required by the Building Inspector and shall not engage

in the business of plumbing, nor be directly or indirectly connected with a plumbing firm whose business is the selling of plumbing materials or equipment. (Ord. of 4-28-1981)

Sec. 8-51. State Plumbing Code adopted.

The Massachusetts State Plumbing Code established under Chapter 358 of the Acts of 1965 or as thereafter established from time to time shall apply with full force and effect to any and all plumbing. (Ord. of 4-28-1981)

Sec. 8-52. Enforcement of plumbing regulations.

The Superintendent of Public Buildings and Building Inspector shall have control of the enforcement of this chapter and other regulations relating to plumbing. (Ord. of 4-28-1981)

Sec. 8-53. Inspector of Weights and Measures--Appointment.

The Inspector of Weights and Measures shall be appointed by the Mayor and shall report to the Commissioner of Public Safety. (Ord. of 4-28-1981)

Sec. 8-54. Same--Enforcement of laws.

The Inspector of Weights and Measures shall enforce all laws pertaining to weighing and measuring devices and to the giving of false or insufficient weight or measure. (Ord. of 4-28-1981)

Sec. 8-55. Same--Collection and disposition of fees.

The inspector of weights and measures shall collect the fees and charges which by law he is allowed to receive, and shall pay over to the city treasurer each month all sums of money so received by him. (Ord. of 4-28-1981)

Sec. 8-56. Same--Certificates to owners of articles sealed.

The inspector of weights and measures shall, at the time of sealing, furnish the owner of the articles sealed, or his agent, with a certificate stating the name and address of the owner of the article, the date when sealed, and the amount of fee, if any, collected, which certificate shall be signed by the inspector. (Ord. of 4-28-1981)

Sec. 8-57. Same--Office and hours; custodian of public scales.

The inspector of weights and measures shall have an office at the City Hall, and shall establish office hours for the convenience of the public who desire to have scales, weights and measures tested. He shall have the care and custody of all public scales of the city. (Ord. of 4-28-1981)

Sec. 8-58. Same--Records.

The inspector of weights and measures shall keep a detailed record of all work performed by him, and shall annually make a report as required by law. (Ord. of 4-28-1981)

Sec. 8-59. City physician-Position established; duties.

A city physician shall be appointed by the mayor and shall serve under the direction of the commissioner of public safety. The city physician shall be compensated according to the compensation plan. Said city physician shall be subject to the board of health as provided in Massachusetts General Law, Chapter 111.

He shall, when requested by the city solicitor, examine the condition of persons who have sustained injury for which the city may be liable, and furnish him with a written report of his examination and also give evidence as a witness in any action affecting the interest of the city when requested by the city solicitor. He shall, when requested by the head of any department, make a physical or mental examination of any person preparatory to testifying and shall thereafter testify with reference thereto in any proceeding wherein the interests of the city may be involved. (Ord. of 4-28-1981)

Sec. 8-60. Same--Examination of certain persons.

It shall be the duty of the city physician, upon request of the mayor or any department head, to examine any person claiming compensation under sections 2-8 to 2-26 for any period of disability, and to report the results of such examination to the mayor or department head as frequently as requested during such period of disability. It shall also be the duty of the city physician to report to the mayor or department head requesting such examination when the total disability of the person examined terminates. This section shall not operate or be construed to entitle any disabled person to medical treatment or services by the city physician.

He shall, at the request of the officer in charge at the police station, attend and examine any prisoner and shall render such medical or surgical treatment as may be necessary. (Ord. of 4-28-1981)

Sec. 8-61. Same--Nature of services defined.

The professional services to be rendered by the city physician under this article shall be such as are ordinarily rendered or performed by a duly qualified physician. (Ord. of 4-28-1981)

Sec. 8-62. Same--Extra compensation.

He [the city physician] shall render monthly bills for any services for which he may be entitled to extra compensation concerning the professional services rendered during the preceding month. (Ord. of 4-28-1981)

Sec. 8-63. Reserved. EN(48)

Sec. 8-64. Records and books.

Any person within any division so designated by the commissioner shall keep a written record of all doings of that division, and shall make such record available to the commissioner and the mayor. (Ord. of 4-28-1981)

Sec. 8-65. Severability clause.

In the event that any portion of this chapter is declared null and void by a court of competent jurisdiction, such invalidity shall not affect any remaining portions. (Ord. of 4-28-1981)

CHAPTER 9. HAWKERS, PEDDLERS AND TRANSIENT VENDOR. EN(49)

Sec. 9-1. License for peddlers of food required; exceptions.EN(50)

No person shall go about within the City selling or bartering or carrying or exposing for sale or barter, meats, butter, cheese, fish, fresh fruit or vegetables in or from any car, wagon or other vehicle, or in any other manner, without first having obtained a license therefor; provided, however, that this section shall not a apply to any person who peddles only fruit, vegetables or other farm products, raised or produced by himself or his family, or fish obtained by his own labor or that of his family.

Sec. 9-2. Same--Granting; duration.

The City Council may grant the license required by the preceding section to any person of good repute as to morals and integrity who is or has declared his intention to become a citizen of the United States. Such license shall bear the date of issue and, unless sooner revoked upon conviction of any crime or for any other reason, shall continue in force for one year from such date.

Sec. 9-3. Same--Certificate of Sealer of Weights and Measures required.

No license required by Section 9-1 shall be granted until the applicant has presented a certificate from the Sealer of Weights and Measures, stating that all weighing and measuring devices intended to be used by such person have been duly inspected and sealed as required by law.

Sec. 9-4. Badges and vehicle plates.

The City Clerk shall, at the expense of the licensee, issue a badge for each peddler and plates for each vehicle used in hawking or peddling. Such badge and plates shall bear the number of the license and the word "peddler." Each peddler shall wear his badge in a conspicuous place. The plates shall be displayed on each side of such vehicle.

Sec. 9-5. Not to conflict with licenses from commonwealth.

Nothing in this chapter shall be construed as conflicting with any license issued under authority of the commonwealth.

Sec. 9-6. Unnecessary noise; vehicles, etc., to be clean, etc.

No person hawking, peddling or carrying or exposing any article for sale shall cry his wares to the disturbance of the peace or comfort of the inhabitants of the city or carry his wares other thin in vehicles and receptacles which are neat and clean and do not leak.

Sec. 9-7. Transient vendor--Definition.

The term "transient vendor" for the purposes of this chapter shall be the same as defined in Sections 1 and 2 of chapter 101 of the General Laws.

Sec. 9-8. Same--Application for license.[EN(51)]

Every transient vendor, whether principal or agent, authorized by state license to do business in this commonwealth, before making any sales of goods, wares and merchandise in the City, shall make application for a local license to the City Clerk stating the names, residences and places of business of the owners or parties in whose interest such business is conducted and shall at the same time file with the City Clerk a true statement, under oath, of the average quantity and value of the stock of goods, wares and merchandise kept or intended to be kept or exposed by him for sale.

Upon the payment of a fee as set in Section 12-2, entitled "Fees," the City Clerk shall issue to the transient vendor a license authorizing the sale of such goods, wares and merchandise within the City. (Ord. of 3-11-2008)

Sec. 9-9. Same--Display of license.

Every transient vendor who is granted a license under the provisions of this chapter shall exhibit the same at all times, while in force, in some conspicuous part of the place of business for which it is issued.

Sec. 9-10. Same--Bond.

Every transient vendor licensed under this chapter shall also execute a bond to the City in the sum of $500 with two sufficient sureties, conditioned for faithful observance of this ordinance.

Sec. 9-11. Reserved.[EN(52)]

Sec. 9-12. Penalty.

Any person who conducts a business as a transient vendor without a local license shall be guilty of a noncriminal violation. (Ord. of 3-11-2008)

Sec. 9-13. Nonissuance of license.

No license shall be issued to any applicant if the business sought to be licensed does not comply with all applicable federal, state and local laws, ordinances and regulations. If the application is rejected, the City Clerk shall notify the applicant, in writing, giving the reasons for the rejection.

(Ord. of 3-11-2008)

Sec. 9-14. Suspension or revocation of license.

A license shall be revoked or suspended if the vendor is found to have violated of any federal, state, local laws, ordinances and regulations. If the vendor is found to be in violation, the City Clerk shall notify the vendor, in writing, giving the reasons for the suspension or revocation. (Ord. of 3-11-2008)

Sec. 9-15. Severability.

If any section or sections of this chapter shall be declared unconstitutional or otherwise void and ineffective by a court of competent jurisdiction, the validity of the remainder of the provisions hereof and their application shall not be affected thereby. (Ord. of 3-11-2008)

CHAPTER 10. JUNK AND SECONDHAND DEALERS. EN(53)

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

For the purpose of this article the following words and phrases, as used in this section, shall, except as otherwise provided by law, have the following meanings:

Collector of junk: A person, who, by going from place to place, collects by purchase or otherwise junk or old metals or secondhand articles, whether or not by previous contract and arrangement.

Dealer in junk, old metals or secondhand article: A person engaged in the business of the purchase, sale, barter or exchange of junk, old metals or secondhand articles, whether at retail or wholesale.

Dealer in or keeper of a shop for secondhand articles, other than junk or old metals. A person who maintains a place where secondhand articles, other than junk or old metals, are bought, sold or bartered.

Junk: All used or discarded articles or materials in general, including scrap iron, that may be

treated so as to be used again in some form.

Old metals: Any metal or article made from metal which has been worn and used.

Secondhand articles: All articles, materials, goods and merchandise, worn or used previously, collected or purchased, bartered and sold.

Shop for the purchase, sale or barter of junk, old metals or secondhand articles: A place where junk, old metals or secondhand articles are bought, sold or bartered. (Ord. of 9-28-1982)

Sec. 10-2. Licenses required.

(a) *Dealer in or keeper of a shop for junk, old metals or secondhand articles*. No person shall be a dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles in the city without first having obtained a license therefor. Applications for such licenses shall be approved by the Commissioner of Public Safety or his designee.

(b) *Collector of junk, old metals or secondhand articles*. No person shall be a collector of junk, old metals or secondhand articles in the city without first having obtained a license therefor. Applications for such licenses shall be approved by the Commissioner of Public Safety or his designee.

(c) *Dealer in or keeper of shops for secondhand articles, other than junk or old metals*. No person shall be a dealer in or keeper of a shop for the purchase, sale or barter of secondhand articles, except a dealer who takes such secondhand articles in payment, in whole or in part, for new articles of the same nature, without first having obtained a license therefor. Applications for such licenses shall be approved by the Commissioner of Public Safety, or his designee. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-2.1. Applications and renewals of licenses.

Every license shall include the name, residence and place of business of licensee and hours of operation.

Applications and renewals for licenses issued under the provisions of Section 10-2, subsections (a), (b) and (c), shall be subject to the provisions of Chapter 12, Sections 12-1, 12-3 and Section 12-4 of these ordinances. (Ord. of 5-26-1998)

Sec. 10-3. Record of purchases and sales; inspection of book; shop keeper to display name.

Every keeper of a shop for the purchase, sale or barter of any of the articles referred to in this article shall keep a book in which shall be written the time of every purchase of any such article,

a description thereof and the name, age and residence of the person from whom such purchase was made. Such book shall at all times be open to the inspection of any police officer of the city. No article purchased or received by such dealer or keeper of a shop regulated by this article shall be sold until at least 30 days from the date of its purchase or receipt has elapsed, unless the name and address of a person to whom such articles have been sold, with other facts as may be necessary to facilitate the tracing of such articles, have been entered in the book mentioned in the section. Every dealer or keeper of a shop regulated by this article shall put, in a suitable and conspicuous place in his shop, a copy of the secondhand dealer license presently in effect and a sign having his name and occupation legibly inscribed thereon in large letters. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-4. Dealing with minors prohibited.

No dealer or keeper of any shop regulated by this article and no junk collector shall, directly or indirectly, either purchase or receive by way of barter or exchange any of the articles referred to herein from a minor knowing or having reason to believe him to be such. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-5. Business hours.

All shops regulated by this article shall be closed, except between the hours of 7:00 a.m. and 7:00 p.m. of each day of the week, and no keeper thereof shall purchase any of the articles referred to herein, except during such hours. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-6. Collector's identification card.

A collector as defined in Section 10-2(b) shall be issued an identification card at the time of licensing by the City Clerk. The identification card shall bear the signature of the City Clerk and shall contain the collector's name, residential address, business name, business address, the license number assigned by the City Clerk and the date of expiration.

The identification card shall be in the possession of the collector at all times when in the process of collecting, transporting or hauling junk, metals or secondhand articles and shall be displayed upon request. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-7. Method of storing or keeping junk, etc.; condition of premises.

Rags and wastepaper kept or collected by junk dealers shall not be kept or stored except in a substantial brick, cement or stone building; and all articles of junk or old metals shall be hidden from the public, either by storing the same in buildings or by the erection of a suitable fence. All

such premises shall be kept clean and orderly and shall be so conducted that they will not constitute a menace to public health or safety or create a public nuisance. The Commissioner of Public Safety or his designee shall report to the City Council the name and address of any licensee who does not so keep and maintain his premises. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-8. Shops, articles, etc., subject to examination.

Every shop regulated by this article and all articles of merchandise therein and any place, vehicle or receptacle used for the collection or keeping of the articles referred to herein may be examined at any time by the Commissioner of Public Safety or his designee. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-8.1. Condition of premises for shops of secondhand dealers.

A shop for the retail sale of secondhand articles shall be kept safe and orderly by reasonable standards in accordance with the provisions of the State Board of Building Regulations 180 CMR Section 120 (on file in the office of the Building Inspector) and MGL, c. 138 (the Fire Safety Codes). Every shop maintained under this section shall be required to receive a certificate of occupancy from the City Building Inspector.

Minimum standards include:

Aisle width:	36 inches for a building with the capacity of less than 50 persons.
	44 inches for a building with the capacity of more than 50 persons.
Exit sign at each door.	
Height of merchandise:	18 inches from sprinklers.

Hours of operation consistent with Section 10-5 of this article and posted.
(Ord. of 5-26-1998)

Sec. 10-8.2. Enforcement.

(a) The Commissioner of Public Safety or his designee shall make one inspection of every shop maintained for the retail sale of secondhand articles each year prior to the April renewal of licenses. The Commissioner or his designee shall include in the inspection the minimum standards as set forth in Sections 10-3 and 10-8.1 of this article.

(b) This chapter may be enforced by the noncriminal disposition process in accordance with the

provisions of MGL c. 40, § 21D. Enforcing persons shall be police officers and/or the City Building Inspector. After an initial warning for noncompliance, the fine shall be $50 for each subsequent incident or violation.

(c) The Commissioner of Public Safety or his designee shall report to the City Council any violation resulting from an inspection or complaint listing the name and business address of every licensee who does not comply with the requirements of this article. A copy of his report and recommendation, if any, shall be forwarded to the licensee.

(d) After having first given the licensee an opportunity to be heard, the City Council may revoke the license or order that it not be renewed. (Ord. of 4-28-1998; Ord. of 5-26-1998)

Sec. 10-8.3. Duty to inform persons about license requirements.

The City Clerk shall make available to the applicant one copy of this article for the purpose of orientation. (Ord. of 4-28-1998, Ord. of 5-26-1998)

ARTICLE II. USED OR SECONDHAND MOTOR VEHICLES OR PARTS

Sec. 10-9. Licenses required.

No person shall engage in the business of selling, exchanging or assembling secondhand motor vehicles or parts thereof, as classified in MGL c. 140, § 58 without first having obtained a license therefor, as provided in MGL c. 140, § 59.

Sec. 10-10. Condition of premises.

All motor vehicles or parts thereof kept or stored under Class 3 of MGL c. 140, § 58, motor vehicle junk license, shall be hidden from public view, either by storing the same in a building or by enclosing the same within a suitable fence. All such premises shall be kept clean and orderly and shall be so conducted that they will not constitute a menace to public health or safety or create a public nuisance. The Chief of the Fire Department or the Chief of Police shall report to the City Council the name and address of any licensee who does not so keep and maintain his premises.

State law reference--City authorized to regulate the situation of premises, MGL c. 140, § 59.

ARTICLE III. DEPARTMENT OF PUBLIC SAFETY PERMITS, FEES, CHARGES

Sec. 10-11. Public safety permits, fees.

None of the hereinafter named substances or objects shall be stored, used or offered for sale or lease and none of the hereinafter named enterprises shall be engaged in or undertaken without first having obtained an annual permit therefor from the Department of Public Safety, the fee for which permit shall be $5 per year:

Hoods over open fires or flames, spray finishing, dry-cleaning plant, dust hazards, fumigation and fogging, lumber yards and woodworking, ovens and furnaces, service stations and garages, tire rebuilding, welding and cutting, cylinder storage, calcium carbide, acetylene, cellulose nitrate film, cellulose nitrate plastics, combustible fibers, compressed gases, cryogenic liquids, flammable and combustible liquids, hazardous materials and chemicals, L.P. gases, magnesium, matches, organic coatings.

None of the hereinafter named substances or objects shall be stored, used or offered for sale or lease and none of the hereinafter named enterprises shall be engaged in or undertaken without first having obtained a permit therefor on a per instance, as needed and/or required basis from the Department of Public Safety, the fee for which permit shall be $5 per permit:

Bonfires, oil burner equipment repairs and/or installation, explosives, fireworks. (Ord. of 10-26-1982)

Sec. 10-12. Department of Public Safety charges.

(a) The Commissioner of Public Safety shall impose the following charges to consumers for the following nonemergency services:

(1) Sump pump rental: $5 per hour.

(2) City personnel and equipment for basement pumping, flag pole adjustments, premises lock cuts, animal rescue: $20 per hour, one hour minimum.

(3) Alarm system terminal supervision at police division: $100 per year, per alarm.

(4) Smoke detector, certificate of compliance: $10.

(5) Supervision of gasoline tank removal: $5.

(6) Connect master fire alarm box to municipal system: $300 per year, per box.

(7) False fire alarm calls due to defective or improperly maintained alarm equipment, calls answered due to negligence: $100 per call.

(8) Monitoring of the following systems: boiler monitoring; tamper valve monitoring; heat

monitoring; automatic dial systems: $400 per system annually.

(9) Disconnect and reconnect of electrical service or fire alarm system:

Normal business hours: $25 per call.

Nonnormal business hours: $40 per call.
(Ord. of 9-28-1982)

CHAPTER 11. LIBRARY[EN(54)]

Sec. 11-1. Board of Library Trustees established; composition and compensation.

A Board of Library Trustees is hereby established, to consist of seven residents of the City who are suitably qualified persons and who shall serve without compensation. (Ord. of 2-28-1978; Ord. of 7-27-1999)

Sec. 11-2. Appointment; term of office.

The Mayor shall appoint The Board of Library Trustees.

Beginning with the increase in membership of the Board from five to seven members, the Mayor shall appoint one new member to a term to expire in the month of January 2001 and one new member to a term to expire in the month of January 2002.

Upon expiration of each term beginning in the month of January 2000, all terms shall be for a period of three years. (Ord. No. 7-27-1999)

Sec. 11-3. Duties of Board.

The Board of Library Trustees shall serve as an advisory board to the Librarian or other persons in charge of the library, relative to special library programs, and any other matters pertaining to the maintenance or administration of the public library.

Sec. 11-4. Librarian; appointment, qualifications and term of office.

The Mayor shall appoint a Librarian, who shall be a person duly qualified by training and experience in the administration of a public library and shall serve in such office until his

successor shall have been appointed and qualified. The Librarian shall be sworn to the faithful performance of his duties by the City Clerk or a justice of the peace.

Sec. 11-5. Duties of Librarian.

The Librarian shall be the administrative head and have general charge of the library and branch libraries and superintendence of its building or buildings. The Librarian shall make reasonable rules and regulations for the use of the library by the inhabitants of the City and others, including the free use of its books on its premises and for home reading, and shall perform such other duties as the City Council may, by ordinance, prescribe. (Ord. of 4-28-1981, § 1).

CHAPTER 12. LICENSES AND PERMITS GENERALLY. EN(55)

Sec. 12-1. Granting, execution, applications, etc.

All licenses and permits, unless otherwise provided by statute, these Revised Ordinances or other ordinances of the city, shall be granted by the City Council, shall be signed and attested by the City Clerk, recorded in a book kept for that purpose and shall bear the City Seal. All applications for licenses and permits shall be made to the City Council on forms furnished by it and shall set forth such information as it may require. All such licenses or permits shall be made subject to such provisions and conditions, consistent with law relating thereto, as the City Council may determine.

Sec. 12-2. Fees.

The fees set forth for the following licenses or permits shall, at the time the application is filed, be deposited with the City Clerk; and, when the application is granted, the City Clerk shall deliver to the applicant his license or permit; and, if the application is denied by the City Council, the City Clerk shall, upon the surrender of a receipt, refund the applicant the amount of his deposit. All fees collected by the City Clerk shall be paid to the city treasury. The schedule of fees shall be as follows:

SCHEDULE

Auctioneer	
Resident of city, per year	$25.00
Nonresident, per day	$10.00

Bowling alleys, each alley	$5.00
Sunday license, each alley	$5.00
Inflammables	
Garages	
1 to 5 cars (MGL C. 148, §§ 13 - 14)	$2.00
6 to 10 cars	$5.00
11 to 25 cars	$10.00
26 to 50 cars	$20.00
More than 50 cars	$25.00
Keep, store and sell	
Not more than 1,000 gallons	$15.00
1,001 - 2,000 gallons	$20.00
2,001 - 3,000 gallons	$30.00
3,001 - 10,000 gallons	$40.00
10,001 - 50,000 gallons	$80.00
50,001 - 100,000 gallons	$120.00
100,001 - 150,000 gallons	$150.00
150,001 - 200,000 gallons	$200.00
More than 200,000 gallons	$250.00
Private use	$10.00

The renewal fee for inflammables shall be 1/2 the amount assessed for the original license fee as shown above

Junk collector	$50.00
Junk dealer in or keeper of a shop, each location	$100.00
Pawnbrokers	$50.00
April through October	$100.00
November through March	$50.00
Pool or billiard table	
1 to 4, each table	$2.00
Over 4, each table	$1.00
Secondhand dealer, each location	
April through October	$100.00
November through March	$50.00

Slaughtering	$10.00
Taxicabs	
Driver	$10.00
Temporary driver	$5.00
Operator	
First cab	$25.00
Each additional cab	$10.00
Stand on street, each cab	$75.00
Amendment to license, driver or operator, each	$5.00
Transient vendor	
Per consecutive day up to three days	$100.00
Per day for each additional consecutive day	$50.00

(8-23-1966; 12-13-1966; 6-27-1972, §§ 1, 2; 12-26-1973; Ord. of 7-12-1977; Ord. of 9-28-1982; Ord. of 7-9-1991; Ord. of 6-8-1999; Ord. of 2-27-2007; Ord. of 3-11-2008)

Sec. 12-2.1. Additional fees of the City Clerk's office.

(a) Furnishing a record of birth, death or marriage, certified: $10.

(b) Furnishing a record of birth, death or marriage, abstract: $3.

(c) Entering an affidavit and correction of birth, death or marriage, except when entered as a result of an adoption by a resident of the City: $30.

(d) Entering a delayed record of birth, except when entered in as a result of an adoption by a resident of the City: $25.

(e) Filing an intention to marry: $20.

(f) Filing a business certificate under the provisions of Chapter 110, Section 105, of the Massachusetts General Laws: $25.[EN(56)]

(g) Filing an amendment to or discontinuance of a business certificate: $15.

(h) Furnishing a certified copy of a business certificate: $10.

(i) Recording the certificate of a person licensed as a podiatrist, optometrist, physician or osteopath: $20.

(j) Recording pole: orders under the provisions of Chapter 166 of the Massachusetts General

Laws: $50.

(k) Furnishing a certified copy of a pole location order: $5.

(l) Recording a burial lot deed: $15.

(m) Furnishing a certified copy of a burial lot deed: $10.

(n) Recording of resident-to-nonresident cemetery lot transfer.

Type of Lot	Price of Lot	Perpetual Care	Total Price
Single grave	$260	$60	$320
2 graves	$520	$120	$640
4 graves	$1,040	$240	$1,280
8 graves	$2,080	$480	$2,560
12 graves	$3,120	$720	$3,840

(o) Furnishing a certified copy of a voter registration: $5.

(p) Genealogical research; providing staff research time at preappointed scheduled times, per hour: $10.

Reading of record, no certificate issued, per record: $2.

(q) Filing a certification of decision of the Board of Appeals or Planning Board: $5.

(r) Furnishing a certification of any record not previously listed: $5.

Additional per page charge assessed for each page over 3: $1.

(s) Postage and handling for all documents returned via mail: $0.50 minimum or exact mailing weight, whichever is greater.

(t) Raffle and bazaar permit: $25.

(u) Receiving and filing complete inventory for "closing out sale": $20.

Additional per page charge assessed for each page over 3: $1.

(v) Documents preprinted for distribution:

Zoning Pamphlets: $15.

Zoning Map (3 sheets): $5.

Revised Ordinances

City Council document:$5.

Additional per-page charge assessed for each page over 3: $1.

Ordinance Book (unbound): $50.

Supplement to Ordinance Book, each: $10.

City Map: $1.

Map Street: $0.50.

Street lists, persons 17 years and up

Per ward: $0.25 per page.

Voter lists

Per ward: $0.25 per page.

Disc: $10.

(Ord. of 9-28-1982; Ord. of 7-9-1991; Ord. of 9-24-1991; Ord. of 4-24-2001; Ord. of 3-13-2007)

Sec. 12-2.2. Weights and measures fees.

(a) *Balances and scales:*

(1) Over 10,000 pounds: $85.

(2) 5,000 to 10,000 pounds: $50.

(3) 1,000 to 5,000 pounds: $45.

(4) 100 to 1,000 pounds: $25.

(5) 0 to 100 pounds: $15.

(b) *Weights:*

(1) Avoirdupois (each): $2.

(2) Metric: $2.

(3) Apothecary: $2.

(4) Troy: $2.

(c) *Capacity measures:*

(1) Vehicle tanks:

a. Each indicator: $15.

b. Each 100 gallons or fraction thereof: $15.

(2) Liquid:

a. 1 gallon or less: $12.

b. More than 1 gallon: $15.

(d) *Liquid measuring meters:*

(1) Inlet 1/2 inch or less, oil, grease: $18.

(2) Inlet more than 1/2 inch to 1 inch, gasoline: $20.

(3) Inlet more than 1 inch:

a. Vehicle tank pump: $35.

b. Vehicle tank gravity: $45.

(4) Bulk storage: $65.

(5) Company supplies prover: $45.

(e) *Pumps, each stop on pump*: $8.

(f) *Other devices:*

(1) Taximeters: $15.

(2) Odometer-hubodometer: $15.

(3) Leather measuring (semiannual): $10.

(4) Fabric measuring: $10.

(5) Wire, rope, cordage: $10.

(g) *Linear measures:*

(1) Yardsticks: $5.

(2) Tapes: $5.

(h) *Miscellaneous:*

(1) Dry measures: $15.

(i) Coin redemption machine: $25.

(j) Reverse vending: $25.

(k) Retail checkout register scanners:

(1) 1 to 3 scanners: $75.

(2) 4 to 11 scanners: $150.

(3) 12 or more scanners: $250.

(l) Adjustments (made or witnessed): $60 per hour.

(m) Reinspection: $25.

(Ord. of 9-28-1982; Ord. of 2-26-2008)

Sec. 12-2.3. Fees of the License Commission.

Automatic amusement devices: $50 per each device.

Lodging house: $50.

(Ord. of 9-28-1982; Ord. of 1-8-1991)

Sec. 12-2.4. Fees of the Wire and Alarm Division.

(a) *New work, residential and commercial, including additions and renovations except garages:*

(1) Minimum permit fee: $15.

(2) New residential and commercial structures: $75.

(3) New multifamily house, hotels, motels and commercial structures: $75.

Plus for each additional unit: $25.

(4) Temporary service: $25.

(5) Fixtures, switches, receptacles, each: $1 (In excess of 15 not to exceed $75.00 per

permit)

(b) *Upgrading of existing residential and commercial services:*

(1) 100 amps to 600 amps single meter: $40.

Each additional meter: $10

(2) Above 600 amps single meter: $75.

Each additional meter: $10.

(3) 220-volt appliances, each, all at: $5.

(Also includes disposals, dishwashers, oil and gas burners, air conditioners)

(c) *Residential and commercial garages:*

(1) Stall: $25.

Each additional stall: $10.

(d) *Industrial:*

(1) New structure: $400.

(2) Blanket maintenance permit for 1 year (optional) or: $300.

Minimum permit: $15.

Fixtures, switches, receptacles, each: $1.

(In excess of 15 not to exceed $75.00 per permit)

Reinspection of work disapproved, per visit: $25.

(Ord. of 10-9-l984; Ord. of 7-24-1991)

Sec. 12-3. Contents, expiration date, transferability and revocation.

In addition to any specific provisions set forth in the Revised Ordinances each license shall set forth the name of the licensee, the nature of the business and the building or place where it is to be carried on and shall annually expire on the 30th day of April, unless otherwise provided or unless the license is sooner revoked.

Unless otherwise provided no license issued under the provisions of the Revised Ordinances shall be transferred without the consent of the City Council endorsed on the license by the City

Clerk.

Every license and permit issued shall be on condition that the person accepting the same shall abide by the laws of the commonwealth, the ordinances of the city and the conditions in the license or permit, and that the license or permit may, for any violation of its terms or conditions, be revoked at any time by the City Council, unless otherwise provided by law.

When any license or permit issued under the provisions of the Revised Ordinances is revoked, the City Clerk shall note the revocation upon the face of the record of the license or permit and shall give written notice to the holder of the license or permit by delivering such notice to him in person, or by leaving it at the place of business designated in the license or permit, or by mailing the same to his last known address.

Sec. 12-4. Renewals.

The City Clerk is authorized to annually renew any license or permit granted by the City Council which is in force and effect at its expiration, if application for renewal is made on or before the 15th day following its expiration, except for the renewal of secondhand dealer licenses which shall require approval of the City Council.

The fee for all licenses shall be as provided in Section 12-2. (Ord. of 11-25-1997)

Sec. 12-5. Auctioneers.

No person, unless otherwise provided by law, shall act as an auctioneer unless he is duly licensed therefor. Every person licensed as an auctioneer shall give a bond to the City Treasurer in the penal sum of $200, with sufficient sureties, to be approved by the City Council and the City Solicitor, conditioned that he shall in all things conform to the laws relative to auctioneers.

No auctioneer shall hold a sale upon any street.[EN(57)]

Sec. 12-5.1. Auction establishments.

No person except a licensee under Section 14 or Section 18 of Chapter 100 of the General Laws shall conduct or maintain an establishment where merchandise of any kind is sold at auction without a license granted by the Council. The term of such license shall be 60 days from the granting thereof and same may be renewed for periods of 60 days. Each license or renewal shall be granted by the City Council and subject to the fee as set forth in Section 12-2. (12-13-1966)

Sec. 12-6. Billiard tables, bowling alleys, etc.

No person shall maintain or operate a public billiard or poolroom or bowling alley unless he is duly licensed therefor. Each such license shall set forth the number of tables and bowling alleys and the time of opening and closing of the place of business. Applications for such licenses shall be approved by the Chief of Police, or the officer in charge of the Police Department.[EN(58)]

Sec. 12-7. Reserved. [EN(59)]

Sec. 12-8. Keeping of automobiles; storage and sale of explosives and inflammable substances.

No person shall keep, store, manufacture or sell inflammable or explosive substances as provided in Sections 13 and 14 of Chapter 148 of the General Laws without first having obtained a license therefor.

Sec. 12-9. Pawnbrokers.

(a) No person shall engage in or carry on the business of a pawnbroker in the city without first having obtained a license therefor, pursuant to the provisions of Sections 70 to 85 of Chapter 140 of the General Laws. Applications for such licenses shall be approved by the Chief of Police or the officer in charge of the Police Department.

(b) The licensee shall, at the time of receiving a license as a pawnbroker, file with the City Clerk a bond to the city, with two sureties, in the penal sum of $300, approved by the City Council, and conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed.

(c) Whoever violates the provisions of this section shall be punished as provided in Sections 70 to 85 of Chapter 140 of the General Laws.

(d) The City Council, pursuant to Massachusetts General Laws Chapter 140, Sections 70 and 78, shall from time to time promulgate rules and regulations to govern the business operations of a pawnbroker, which rules and regulations shall be filed with the City Clerk. (Ord. of 2-26-1980)

Sec. 12-10. Slaughterhouses, etc.

(a) The proprietor of each slaughterhouse, canning, salting, smoking or rendering establishment, and of each establishment used for the manufacture of sausages or chopped meat of any kind, who is engaged in the slaughter of meat cattle, horses, mules, sheep or swine, the meat or products of which are to be sold or used for food, shall annually, in April, apply for a

license to the City Council.

(b) The application shall be in writing, signed and sworn to by one or more of the owners or persons carrying on such business, or, if a corporation, by some authorized officer thereof, and shall state the name and address of all the owners or persons carrying on such business, the location of the slaughterhouse or establishment, the estimated number of meat cattle, horses, mules, sheep or swine to be slaughtered per week, the days of the week upon which they are to be slaughtered and the nature of the products thereof to be sold or used for food.

Sec. 12-11. Lodging houses.

(a) *Lodging house* shall mean a house where lodgings are let to four or more persons not within the second degree of kindred to the person conducting it, but shall not include fraternity houses and dormitories of educational institutions or dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under Section 71 of Chapter 111 of the General Laws or rest homes so licensed, or group residences licensed or regulated by agencies of the Commonwealth of Massachusetts.

(b) The License Commission may grant licenses for lodging houses. Such licenses shall expire on December 31 of each year; but they may be granted during December to take effect on January 1 following. The fee for all licenses shall be as provided in Section 12-2.3. No such license shall be granted until the Code Enforcement Officer and the Commissioner of Public Safety, or some person designated by him, have reviewed the application for license.

(c) All licensed premises shall be subject to inspection semiannually by the Code Enforcement Officer and by the Commissioner of Public Safety, or some person designated by him. A license shall be revoked if at any time the License Commission is satisfied that the licensee is unfit to hold the license. The License Commission may suspend and make inoperative, for such period of time as it may deem proper, the license for any cause deemed satisfactory to it. The revocation and suspension shall not be made until after investigation and a hearing, or after giving the licensee an opportunity to be heard; notice of the hearing shall be left at the premises of the licensee not less than three days before the date of the hearing.

(d) A lodging house where lodgings are let to more than five but fewer than 20 persons may furnish individuals cooking facilities for the preparation, serving, eating and storage of food, provided that no such facility shall be furnished in a room having an area of less than 100 square feet. Such facilities shall, in a single room, consist of a gas or electric plate or microwave oven. Any facilities furnished under this section shall comply with the Building Code.

(e) Whenever the License Commission issues a lodging house license, the licensee may let individual rooms to individual persons only and may not contract out rooms to an entity or institution which intends to choose lodgers for the rooms. Such conduct will be held to constitute leasing out of the license and is prohibited. Violations of this section may result in suspension or

revocation of the license.

(f) Whoever being licensed as a lodging house keeper or being in actual charge, management or control of such lodging house, knowingly permits the property under his or her control to be used for the purpose of immoral solicitation, immoral bargaining or immoral conduct, including criminal activities such as prostitution, use and sale of drags, possession of drugs and gambling, shall be subject to disciplinary proceedings against the license and shall be subject to a fine and imprisonment as set out by state statute.

(g) Every lodging house keeper shall keep or cause to be kept, in permanent form, a register in which shall be recorded the true name and residence of every person engaging or occupying a private room. Such register shall be kept for a period of one year after the last entry therein and shall be open to the inspection of the License Commission, its agents and the police. (Ord. of 1-8-1991)

Sec. 12-12. Tag sale regulation.

No person/organization shall conduct a sale of goods, which sale is not in the normal course of business, without first having obtained a permit from the Building Department, which permit shall be issued for no more than two consecutive days.

No location/address shall be issued a permit more than four times in a given calendar year and no more than one per month. Such permit shall state the person/organization issued to, location/address of sale and days permit is valid. The sale of goods may only occur between the hours of 8:00 a.m. to sundown. Such permit shall be exhibited at the sale. All permitted premises shall be subject to inspection by the Commissioner of Public Safety or his designee.

Whoever shall violate this section or fail to comply with any of its requirements shall be fined not more than $100 for each offense. Each violation and each day of violation shall constitute a separate offense.

All signage pertaining to a tag sale shall be removed within two days after the sale date. (Ord. of 7-9-1991; Ord. of 1-11-2011)

Sec. 12-13. Keg license.

Whenever in this ordinance the following terms are used, they shall have the meanings ascribed to them in this section unless otherwise expressly provided or unless a different meaning is reasonable and clearly apparent from the language or context.

Sec. 12-13.1. Definitions.

Alcoholic Beverages: all liquids intended for human consumption as a beverage which contain 1/2 of 1% or more of alcohol by volume at 60° F., including malt beverages.

Dispense: to transfer or exchange alcoholic beverages, including pouring and the providing of access to such beverages, whether or not for monetary consideration.

Half Keg: any metal, wooden, plastic, paper or other container designed to hold 15.5 gallons of liquid and actually containing any amount of malt beverage.

Keg License: a special license issued by the License Board or its designee the Commissioner of Public Safety. (Ord. of 5-13-1997)

Licensed Establishment: a retail establishment holding a license pursuant to MGL c. 138, § 15 that sells alcoholic beverages for consumption off the premises; and an establishment licensed pursuant to MGL c. 138 § 14.

Licensee: Any person, club, partnership, corporation or other entity licensed under the provisions of MGL c. 138 to sell alcoholic beverages, including malt beverages.

Malt Beverages: All alcoholic beverages manufactured or produced by the process of brewing or fermentation of a malt, with or without cereal grain of fermentable sugars, or of hops, and containing not more than 12% of alcohol by weight, including beer.

Person: An individual firm, association, partnership, corporation or other combination of persons and their agents, servants, employees, stockholders, officers or other person or any subsidiary whatsoever.

Quarter Keg: Any metal, wooden, plastic, paper or other container designed to hold 7.75 gallons of liquid and actually containing any amount of malt beverage.

Sale: Any transfer or exchange of alcoholic beverages in any manner or by any means whatsoever for direct or indirect consideration.

Sec. 12-13.2. Requirement of license for keg possession.

(a) The License Board or its designee, the Commissioner of Public Safety or the Director of Police is authorized to issue keg licenses for the possession and dispensing of malt beverages in kegs within the City of North Adams. The terms and conditions for licenses granted under this section shall be determined by the License Board pursuant to this chapter.

(b) A keg license shall be required for the possession of two or more quarter kegs and for the dispensing of a malt beverage from two or more quarter kegs at any place other than a licensed establishment or a licensed activity.

(c) A keg license shall be required for the possession of one or more half kegs and for the dispensing of a malt beverage from one or more half keg at any place other than a licensed establishment or activity.

(d) Applications for a keg license will be available at the Public Safety Department Headquarters, 40 American Legion Drive, North Adams.

(e) Applicants must appear in person at the Public Safety Department Headquarters for an orientation regarding the Keg Licensing Ordinance and understanding of MGL c. 138 regarding the dispensing and consumption of alcohol.

(f) The Public Safety Commissioner may grant the keg license, provided that the following occur:

(1) Application is properly completed and submitted to the Commissioner of Public Safety.

(2) Valid photo identification is presented.

(3) The applicant is 21 years of age or older.

(4) The applicant does not have a record of drug or alcohol related convictions, arrests, complaints or incidents. (Ord. of 5-13-1997; Ord. of 5-26-1998)

Sec. 12-13.3. License.

(a) Within the City of North Adams, it shall be unlawful for any person to possess or dispense a malt beverage from two or more quarter kegs or one or more half kegs unless such person has been issued a valid keg license.

(b) The term of the license shall be determined by the Commissioner of Public Safety. The term of the license may be issued up to one year at the same residence of the applicant.

(c) The license will be issued or denied within three working days.

(d) The application, once approved, will become the license, with the Public Safety Department retaining a copy.

(e) A denied application may be appealed to the License Board within 30 days of receiving notice.

(f) Only the licensed number of kegs(s) shall be kept and dispensed on the premises.

(g) The license must be available for inspection at all times.

(h) A separate keg license shall not be required if the establishment or activity at which malt

beverages will be dispensed is licensed pursuant to MGL c. 138. (Ord. of 5-13-1997)

Sec. 12-13.4. Fees.

No fee is required for a keg license. (Ord. of 5-13-1997)

Sec. 12-13.5. Enforcement.

(a) The provisions of this section shall be enforced by the Public Safety Department.

(b) This ordinance may only be enforced in connection with any violation of MGL c. 272, § 53, or MGL c. 138 and may result in a request for inspection of license.

(c) This ordinance shall be enforced by criminal complaint in the District Court. In the alternative, it may be enforced by the noncriminal disposition process of MGL c. 40, § 21D. For the purpose of noncriminal enforcement, the enforcing persons shall be police officers of the City of North Adams. (Ord. of 5-13-1997)

Sec. 12-13.6. [EN(60)] Duty to inform persons about keg licensing.

The Public Safety Department shall make available information about the Keg Ordinance and MGL, c. 138 for the purpose of orientation regarding the Keg Ordinance. (Ord. of 5-13-1997)

Sec. 12-13.7. Severability.

If any section, paragraph or provision of this ordinance is held to be invalid or uninforceable, such invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance, which shall remain in full force or effect. (Ord. of 5-13-1997)

Sec. 12-13.8. Reserved. [EN(61)]

CHAPTER 13. MOTOR VEHICLES AND TRAFFIC[EN(62)]

ARTICLE I. IN GENERAL

Sec. 13-1. Definitions.

Wherever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section, unless otherwise expressly provided or unless a different meaning is reasonable and clearly apparent from the language or context.

Bicycle: Every device propelled by human power, upon which any person may ride, having two tandem wheels, either of which is over 20 inches in diameter.

Bus stop: An area in any street, square or other public place, set aside for the parking of buses during the receipt or discharge of passengers.

Commercial vehicle: Any vehicle being used in the transportation of goods, wares or merchandise for commercial purposes.

Commercial vehicle, heavy: Any commercial vehicle of two and one-half (2 1/2) tons capacity or over.

Crosswalk: That portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

Driver: Every person who drives or is in actual physical control, of a vehicle.

Emergency vehicle: Vehicles of the fire and police apartments, ambulances, emergency vehicles of federal, state and municipal departments, and emergency vehicles of public service corporations when responding to an emergency of a public nature.

Funeral: Any procession of mourners properly identified as such accompanying the remains of a human body.

Intersection: The area embraced within the prolongation of the two (2) or more streets or highways which join one another at an angle, whether or not one such street or highway crosses the other.

Loading zone: That portion of a roadway adjacent to a curb reserved for the exclusive use of vehicle during the loading or unloading of passengers or materials, and so indicated by appropriate signs, lines or markings.

Officer: Any police officer or official authorized by law to direct, control or regulate traffic,

who is in uniform or has his badge of office displayed upon the left breast of his outer garment.

Official traffic signals, signs and devices: All signals, signs, markings and devices, placed or erected pursuant to this ordinance [chapter], by order of any public body or official having jurisdiction hereunder, for the purpose of guiding, directing, warning, or regulating traffic, which conform to the standards prescribed by the department of public-works of the commonwealth.

Parking: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading or in obedience to on officer or traffic signals or signs, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

Parking meter: Any mechanical device, not inconsistent with the provisions of this regulation, and placed or erected on any public way within the city for the regulation of parking. Each parking meter installed shall indicate by proper legend the legal parking time established by this [chapter] and when operated shall at all times indicate the balance of legal parking time permitted and at the expiration of such period shall indicate illegal or over time parking.

Parking meter space: Any space within a parking meter zone, adjacent to a parking meter which is duly designated for the parking of a single vehicle by lines painted on the surface of the street adjacent to or adjoining each parking meter.

Parking meter zone: Any street or portion thereof or public place upon which parking meters are installed and in operation and upon which parking of vehicles is permitted for a limited time subject to compliance with the further provisions of this regulation.

Pedestrian: Any person afoot or riding on a conveyance moved by human power, except bicycles or tricycles.

Person: Any individual, firm, co-partnership, association or corporation.

Roadway: That portion of a street or highway between the regularly established curb lines or that part improved and intended to be used for vehicular traffic.

Sidewalk: That portion of a street or highway set aside for pedestrian travel.

Stop: Complete cessation of movement.

Stopping or standing: Any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic control sign or signal.

Street or highway: The entire width between property lines of every way open to the use of the public for the purpose of travel.

Taxicab stand: An area in any street, square or other public place, set aside for the parking of

licensed taxicabs, while waiting to be engaged.

Traffic: Pedestrians, ridden or herded animals and all vehicles and conveyances, either singly or together, while using any street for the purpose of travel.

Traffic-control signals: Any device using colored lights which conforms to the standards prescribed by the department of public works of the commonwealth, whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.

Traffic lane: A longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

Trailer or semitrailer: would constitute any vehicle without motor power designed for carrying persons or property, being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

U-turn: The turning of a vehicle on street or highway by means of a continuous left turn whereby the direction of such vehicle on said street or highway is reversed.

Vehicle: Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Way: Any public highway, private way laid out under authority of statutes, way dedicated to public use, municipally owned or leased off-street parking lots, or other public places, under the control of the commissioner of public works. (Ord. of 7-24-1979; Ord. of 6-26-2007)

State law reference--Definitions under the law of the commonwealth, G. L., C. 90, § 1.

Sec. 13-2. Exemptions of certain vehicles from provisions of chapter.

The provisions of this chapter shall not apply to drivers actually engaged in work upon a street or highway closed to travel or under construction or repair nor, subject to the provisions of the statutes, to drivers of emergency vehicles; while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitates a departure from any part of this chapter. This exemption shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others.

State law reference--See G. L., C. 89, § 7 et seq.

Sec. 13-3. Authority generally of police.

Officers of the police department [division] shall enforce the provisions of this chapter and shall control, regulate and direct all traffic in conformance with the provisions of this chapter,

provided that in the event of a fire, parade, celebration, public event or emergency offering an immediate threat to public safety, or to expedite traffic or safeguard pedestrians, officers of the police department [division] may, notwithstanding the provisions of this chapter, temporarily direct traffic, close any street or highway, or prohibit parking on any street or highway, as conditions may require. Vehicles parked in places where parking is permanently or temporarily prohibited may be moved by or under the direction of an officer. (Ord. of 4-28-1981, § 1)

Sec. 13-4. Noisy vehicles.

No vehicle shall be operated on any street or highway if such vehicle is so constructed, conditioned, loaded or equipped as to make an unreasonably or unnecessarily loud noise.
Cross reference--Sound trucks, ch. 20.

Sec. 13-5. Clinging to moving vehicles.

No person traveling upon any bicycle, motorcycle, coaster, sled, toboggan, roller skates, toy vehicle or any other means of conveyance shall cling to, or attach himself or his vehicle or conveyance to any other moving vehicle upon any street or highway.
Cross reference--Unlawful riding, § 13-10.

Sec. 13-6. Pedestrians soliciting rides.

No person shall stand in a roadway or on a sidewalk for the purpose of soliciting a ride from the operator of any private vehicle.

Sec. 13-7. Driver to report accident.

The driver of any vehicle involved in an accident resulting in the injury or death of any person, or property damage to the apparent total extent of $200 or more, shall within five days make a full and complete report in writing of such accident to the police department [division]. A driver who has been incapacitated as a result of such accident, and to such an extent as to make reporting impossible or unfavorable to his recovery, shall not be required to report such accident until he has recovered sufficiently to do so. The report shall be made on a form furnished by the police department [division], copies of which shall be made available at the police station. The provision of this section, however, shall in no way abrogate the provisions of Chapter 90, Section 26 of the General Laws which provide for the reporting of accidents to the registrar of motor vehicles. (8-10-65, § 1)

Sec. 13-8. Removal of vehicles for the purpose of snow removal.

For the purpose of removing or plowing snow or removing ice from any way, the commissioner of public works [services] may remove, or cause to be removed to some convenient place or a public garage, any vehicle interfering with such work; and the cost of such removal and of the storage charges, if any, resulting therefrom, shall be paid by the owner of such vehicle. State law reference--Authority of city to remove vehicles in order to remove snow, G. L., C. 40, § 21(16).

Sec. 13-9. Street parades, processions, etc.

No street shall be used for the purpose of a parade, procession or organized gathering or march, except a military parade or a funeral procession, without first securing a permit for the same from the chief of police (commissioner of public safety).

Sec. 13-9.1. Parade regulations.

In order to ensure public safety before and during parades the following regulations, pursuant to G.L. c. 101, § 22, and c. 101, § 27, are hereby enacted. (Ord. of 9-28-1999)

Sec. 13-9.2. Obstruction of or interference with parades.

No person or vendor shall unreasonably hamper, obstruct or impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade. (Ord. of 9-28-1999)

Sec. 13-9.3. Throwing objects or substances at parades.

No person shall discard, launch, propel, release, squirt or throw any gaseous, liquid, semisolid substance or object toward or among the participants, vehicles or animals in a parade. (Ord. of 9-28-1999)

Sec. 13-9.4. Enforcement of parade regulations.

The Commissioner of Public Safety, or his designees shall enforce §§ 13-9.1 through 13-9.3. (Ord. of 9-28-1999)

Sec. 13-9.5. Violation of parade regulations.

Violations of §§ 13-9.1 through 13-9.3 shall be enforced through Chapter 29, Penalties. (Ord. of 9-28-1999)

Sec. 13-10. Unlawful riding.

It shall be unlawful for any person to ride on, and for the owner or person in control of any vehicle knowingly to permit any person to ride on any portion of a vehicle not designated or intended for the use of passengers when the vehicle is in motion. This provision shall not apply to any ,employee engaged in the necessary discharge of a duty.

Cross reference--Clinging to vehicles, § 13-5.
State law reference--Unlawful riding on certain vehicles, G. L., C. 85, 17B.

Sec. 13-11. Zones of quiet.

The commissioner of public works may temporarily establish a zone of quiet upon any street where a person is seriously ill. Such temporary zone of quiet shall embrace all territory within a radius of 200 feet of the building occupied by the sick person, and shall be designated by placing at a conspicuous place in the street a sign or marker bearing the words "Zone of Quiet."

Sec. 13-12. Dropping or leaking loads.

No owner or person in control of any vehicle shall permit such vehicle to be driven or moved on any street or highway unless such vehicle is so constructed or so loaded as to prevent its contents from spilling, dropping, sifting, leaking or otherwise escaping therefrom. Vehicles loaded with any material which may be blown about by the wind shall be suitably covered to prevent the contents from being blown upon the streets or highways.

ARTICLE II. TRAFFIC COMMISSION

Sec. 13-13. Established; composition; qualifications; chairman.

A traffic commission is hereby established and shall consist of seven members who shall be residents of the city, one of which shall be a member of the city council. The mayor shall designate one of the members as chairman. (Ord. of 10-10-1978)

Sec. 13-14. Appointment; terms of office.

The mayor shall appoint, in the month of January of each year, at least one member to the traffic commission to serve for a term of three years beginning with the second Monday in January next following his appointment until his successor shall be duly appointed. When the traffic commission is first established under this section, the members of the commission shall be appointed for a term of such length and so arranged that the term of at least one member expires each year, except the term of the member designated from the city council. The member of the city Council shall serve for the term to which he has been duly elected to the city council. Vacancies shall be filled for the unexpired terms in the manner as in the case of original appointments. (12-12-67)

Sec. 13-15. Organization; records.

The commission shall elect annually a secretary from its own members who shall keep records of all meetings, which records shall be the property of the city.

Sec. 13-16. Meetings.

The commission shall meet as often as its business shall require.

Sec. 13-17. Powers and duties.

The commission shall develop policies and practices for the regulation and control of traffic; installation, operation and maintenance of parking meters in existing parking meter zones; establishment and discontinuance of parking meter zones; the parking of vehicles on public ways; the installation and maintenance of traffic signs and traffic control signals; whether the same be originally referred to it by the city council, private citizens or upon its own initiative,

Sec. 13-18. Reference of traffic ordinances to Commission.

The City Council shall refer every proposed resolution, order or ordinance for the regulation of traffic, or any amendment thereto, to the Commission for its study and report. No final vote shall be taken by the City Council on any such resolution, order or ordinance until the Commission has submitted its report with recommendations, in writing, or until 20 days shall have elapsed after reference to the Commission without the filing of such report. Such reports and recommendations shall be advisory only, and shall not have the force and effect of law.

ARTICLE III, . SIGNS, SIGNALS AND MARKINGS[EN(63)]

Sec. 13-19. Installation, operation and maintenance.

Official traffic-control signals, signs and devices shall be installed, operated and maintained in accordance with permit or permits issued by the Department of Public Works of the commonwealth and in conformity with this chapter at such place or places as the City Council may determine.

Sec. 13-20. Obedience to traffic signals, signs and markings.

No driver of any vehicle shall disobey the instructions of any official traffic-control signal, sign, device or marking, unless otherwise directed by a police officer.

Sec. 13-21. Designation, etc., by Council.

Crosswalks, traffic lanes, loading zones, bus stops and taxicab stands shall be authorized, designated and established by the City Council. It may also authorize, designate and establish parking spaces that are restricted to use solely by those vehicles owned and driven by a disabled veteran or by a handicapped person and bearing the distinctive number plates authorized by Section two of Chapter Ninety of the Massachusetts General Laws or for any vehicle transporting a handicapped person displaying the special parking identification plate authorized by said Section two of Chapter Ninety. (Ord. of 9-12-1978; Ord. of 11-27-1979; Ord. of 10-27-1987; Ord. of 12-24-2002)

Sec. 13-22. Duty of Commissioner of Public Works.

The Commissioner of Public Works shall place, erect and maintain or cause to be placed, erected and maintained all traffic-control signals, signs and devices, and mark and maintain or cause to be marked and maintained by official devices, markings, letterings and lines upon the surface of the street or highway, all crosswalks, traffic lanes, loading zones, parking areas and designations, authorized by the City Council in conformity with this chapter.

Sec. 13-23. Display of signs.

No provision of this chapter for which signs are required shall be enforceable against an alleged

violator if, at the time and place of the alleged violation, the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Unless otherwise expressly provided, signs shall not be required to give notice of any provision of this chapter.

Section 13-31 pertaining to authority of police and Section 13-31 pertaining to left turns and Sections 13-49, 13-50 and 13-53 to 13-55 pertaining to parking, Section 13-34 to throughways, Section 13-42 to location of stop signs, and Section 13-37 pertaining to turning movements shall be effective only during such time as official signs are erected and maintained in each block designating the provisions of such sections and located so as to be clearly visible to approaching drivers.

Section 13-43 pertaining to one-way streets shall be effective only during such time as a sufficient number of official signs are erected and maintained in each of the exits for each one-way street, so that at least one sign will be clearly visible for a distance of at least 75 feet to drivers approaching such an exit. (8-10-1965, § 2.)

Sec. 13-24. Display of unauthorized signals, signs and markings; removal.

It shall he unlawful for any person to place, maintain or display upon or in view of any street any unofficial signal, sign, device, curb marking or street marking which purports to be or is an imitation of or resembles an official traffic signal, sign, device, curb marking or street marking or which attempts to direct the movement of traffic or which hides from view any official signal, sign, device or marking. The Police Department shall remove every such prohibited signal, sign, device, or marking or cause it to be removed without notice.

Sec. 13-25. Interference with.[EN(64)]

It shall be unlawful for any person to willfully deface, injure, move, obstruct or interfere with any official traffic signal, sign, device, or marking.

ARTICLE IV, . Operation of Vehicles.

Sec. 13-26. Special speed regulations.

In accordance with the provisions of Section 18 of Chapter 90 of the General Laws the following special speed regulations are hereby established:

Route 2-eastbound traffic.
Beginning on West Main Street 100 feet east of the end of state highway; thence easterly one

mile at 30 miles per hour; thence easterly 0.1 mile at 25 miles per hour ending at Phoenix Bridge, the total distance being one and one-tenth miles.

Route 2-westbound traffic.
Beginning on West Main Street at the Phoenix Bridge; thence westerly 0.1 mile at 25 miles per hour; thence westerly one mile at 30 miles per hour, and ending at the beginning of state highway, the total distance being 1.1 miles.

Massachusetts Avenue, City Highway-eastbound traffic.
Beginning at a, point 200 feet from the Williamstown North Adams City line; thence easterly 1.7 miles at 30 miles per hour; thence easterly .5 miles at 25 miles per hour ending at the intersection of Massachusetts Avenue and Route 2, the total distance being 2.2 miles.

Massachusetts Avenue, City Highway-westbound traffic.
Beginning at the intersection of Massachusetts Avenue and Route 2 in North Adams; thence westerly 0.5 miles at 25 miles per hour; thence westerly 1.7 miles at 30 miles per hour to the North Adams Williamstown City line, the total distance being 2.2 miles.

Curran Memorial Highway-northbound traffic.
Beginning at a point 50 feet north of the Adams-North Adams town line; thence northerly 1.42 miles at 45 miles per hour; thence northerly 0.54 miles at 40 miles per hour; thence northerly 0.34 miles at 45 miles er hour, thence northerly 0.10 miles at 35 miles per hour ending at the junction of State Street and the Curran Memorial Highway; the total distance being 2.40 miles.

Curran Memorial Highway-southbound traffic.
Beginning at the junction of State Street and the Curran Memorial Highway, thence southerly 0.12 miles at 35 miles per hour; thence southerly 0.31 miles at 45 miles per hour; thence southerly 0.54 miles at 40 miles per hour; thence southerly 1.39 miles at 45, miles per hour ending at a point 150 feet north of the North Adams-Adams town line; the total distance being 2.36 miles.

The provisions of this section shall not, however, abrogate in sense, Section 14 of Chapter 90.

Except as otherwise provided by statute, any person convicted of violating any of the provisions of this regulation, or any amendment thereto, shall be subject to the penalties provided in Section 20 of Chapter 90.

Sec. 13-26.1. School zones.

In accordance with the provisions of Section 17 of Chapter 90 of the General Laws, the following is hereby designated as a school zone:

Kemp Avenue, 500 feet northerly and 500 feet southerly from the Sullivan School driveway, 20 miles per hour, school days only between the hours of 7:00 a.m. and 4:00 p.m.

Phelps Avenue, 500 feet northerly and 500 feet southerly from the Greylock School driveway, 20 miles per hour, school days only between the hours of 7:00 a.m. and 4:00 p.m.

(Ord. of 12-26-2001; Ord. of 12-27-2005)

Sec. 13-27. Operation of emergency vehicles.

All fire apparatus returning from fires, and all other emergency vehicles when not on urgent call, shall obey traffic-control signals and official traffic signals and signs.

Sec. 13-28. Approaching intersections.

Upon approaching any intersection of ways, drivers of vehicles shall proceed only as indicated by official signals, signs or markings.

State law reference--Right-of-way at intersecting ways, G. L., C. 89, § 8.

Sec. 13-28.1. Traffic lanes for specific turning movements only.

When approaching the following named intersections, the driver must turn his vehicle in the indicated direction, if the vehicle is in the following traffic lanes:

(1) *Right lane must turn right:*

(a) Marshall Street and St. Anthony Drive. Vehicle traveling north on Marshall Street and intending to turn east on St. Anthony Drive.

(b) Main Street and Hadley Overpass. Vehicles traveling east on Main Street and intending to turn south on Hadley Overpass.

(c) Main Street and Marshall Street. Vehicles traveling west on Main Street and intending to turn north on Marshall Street.

(d) Main Street and Marshall Street. Vehicles traveling north on Hadley Overpass and intending to turn east on Main Street.

(e) Main Street and Marshall Street. Vehicles traveling south on Marshall Street and intending to turn west on West Main Street.

(f) Main Street and American Legion Drive. Vehicles traveling east on Main Street and intending to turn south on American Legion Drive.

(g) Main Street and Eagle Street. Vehicles traveling east on Main Street and intending to turn south on Ashland Street.

(h) Main Street and Eagle Street. Vehicles traveling south on Eagle Street and intending to turn west on Main Street.

(i) Ashland Street and Summer Street. Vehicles traveling north on Ashland and intending to turn east on Summer Street.

(j) Ashland Street and American Legion Drive. Vehicles traveling east on American Legion Drive and intending to turn south on Ashland Street.

(k) Ashland Street and American Legion Drive. Vehicles traveling south on Ashland Street and intending to turn west on American Legion Drive.

(l) Ashland Street and American Legion Drive. Vehicles traveling north on Ashland and intending to turn east on Chestnut Street.

(m) Union Street and Eagle Street. Vehicles traveling north on Eagle Street and intending to turn east on Union Street.

(n) Union Street and Eagle Street. Vehicles traveling south on Eagle Street and intending to turn west on Veterans' Memorial Drive.

(o) Holden Street and Veterans' Memorial Drive. Vehicles traveling west and intending to turn north on Holden Street.

(p) Holden Street and Veterans' Memorial Drive. Vehicles traveling north on Holden Street and intending to turn east on Veterans' Memorial Drive on Center Street.

(q) Holden Street and Veterans' Memorial Drive. Vehicles traveling east on Veterans' Memorial Drive and intending to turn south on Holden Street or east on Center Street.

(2) *Left lane must turn left:*

(a) Main Street and Hadley Overpass. Vehicles traveling west on Main Street and intending to turn south on Hadley Overpass. (Ord. of 4-26-1977, § 3)

(b) Main Street and Marshall Street. Vehicles traveling south on Marshall Street and intending to turn east on Main Street.

(c) Main Street and Marshall Street. Vehicles traveling east on West Main Street and intending to turn north on Marshall Street.

(d) Main Street and American Legion Drive. Vehicles traveling west on Main Street and intending to turn south on American Legion Drive.

(e) Main Street and Eagle Street. Vehicles traveling west on Main Street and intending to turn south on Ashland Street.

(f) Main Street and Eagle Street. Vehicles traveling south on Eagle Street and intending to turn east on Main Street.

(g) Union Street and Eagle Street and Veterans' Memorial Drive. Vehicles traveling east on Veterans' Memorial Drive and intending to turn north on Eagle Street.

(h) River Street and Eagle Street. Vehicles traveling north on Eagle Street and intending to turn west on River Street.

(i) Veterans' Memorial Drive and Holden Street. Vehicles traveling east on Veterans' Memorial Drive and intending to turn north on Holden Street.

(j) Veterans Memorial Drive and Holden Street. Vehicles traveling west on Veterans Memorial Drive and intending to turn south on Holden Street.

(Ord. of 4-26-1977, § 3; Ord. of 11-13-1979)

Sec. 13-29. Overtaking vehicles.

The driver of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead to permit the overtaking to be completed without impeding the safe operation of any other vehicle.

State law reference-overtaking vehicles, G. L., C. 89, § 2.

Sec. 13-30. Driver to give way to overtaking vehicle.

The driver of a vehicle when about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle, on suitable and audible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Sec 13-31. Left turns on Veterans, Memorial Drive.

Upon the following streets or at the areas designated below no person shall drive a vehicle into the intersecting street by making a left turn:

Westbound on Veterans' Memorial Drive into West Main Street or High Street.

Sec. 13-32. Obstructing traffic.

(a) No person shall drive in such a manner as unnecessarily to obstruct the normal movement of traffic upon any street or highway. Officers may require any driver who fails to comply with this paragraph to drive to the side of the roadway and wait until such traffic as has been delayed has passed.

(b) No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

Sec. 13-33. Following too closely.

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

Sec. 13-34. Throughways.

The following streets or parts of streets are hereby declared to be throughways under the provisions of Section 9, Chapter 89 of the General Laws and subject to the terms thereof.

Ashland Street, from Summer Street to the underpass of the Boston and Maine Railroad.

Sec. 13-35. Slow vehicles to stay two hundred feet apart.

Upon roadways less than 27 feet wide and upon which vehicular traffic is permitted to operate in both directions, the driver of any slow-moving vehicle when traveling outside a business district shall not follow another slow-moving vehicle within 200 feet, but this shall not be construed to prevent such slow-moving vehicular from overtaking and passing another slowmoving vehicle. This section shall not apply to funeral or other lawful processions.

Cross reference-Funeral processions, § 13-47.

Sec. 13-36. Starting, stopping, turning or backing.

The driver of any vehicle before starting, stopping, turning from a direct line or backing shall first see that such movement can be made in safety. If such movement cannot be made in safety, or if it interferes unduly with the normal movement of other traffic, such driver shall wait for a more favorable opportunity to make such movement.

Sec. 13-37. U-turns prohibited.

No driver shall back or turn a vehicle so as to proceed in the direction opposite to that in which such vehicle is headed or traveling, on Main Street between its intersection with Ashland and Eagle Streets and the Phoenix bridge over the south branch of the Hoosac River and on State Street between its intersection with Main Street and its intersection with Depot Square.

Sec. 13-38. Emerging from alley or private driveway generally.

The driver of a vehicle emerging from an alley, driveway, garage or gasoline station shall sound his horn and stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk area extending across such alley, driveway, garage or gasoline station.

Sec. 13-39. Entering and emerging from driveways on certain streets.

(a) No driver shall enter or emerge from a driveway on Main Street between its intersection with Ashland and Eagle Streets and its intersection with Marshall Street and Hadley Overpass by making a left turn.

(b) No driver shall enter or emerge from a driveway on the easterly side of Marshall Street between its intersection with Main Street and its intersection with Center Street by making a left turn.

(c) No driver shall exit from a driveway on the east side of Eagle Street between its intersection with Union Street and a distance of 69 feet northerly therefrom by making a left turn.

No driver shall enter or emerge from a driveway on the easterly side of Eagle Street between its intersection with Canal and Eagle Streets and its intersection with Prospect and Eagle Streets by making a left turn.

(d) No driver shall exit from a driveway on the north side of Union Street between its intersection with Eagle Street and a distance of 268 feet easterly therefrom by making a left turn.

(e) No driver shall exit from a driveway on the east side of American Legion Drive between its intersection with Summer Street and a distance of 576 feet southerly therefrom by making a left turn. (12-13-68; Ord. of 6-23-1987; Ord. of 9-22-1987)

Sec. 13-40. Regulation of bicycles.

When two or more persons in a group are operating bicycles, they shall ride in single file. No bicycle shall be operated between sunset and sunrise without displaying a clear, white, properly,

lighted headlight which is firmly attached thereto, and is visible under normal atmospheric conditions from the front thereof for not less than 500 feet or without a red reflector, firmly attached to the bicycle, which is clearly visible in the headlight beam of an automobile for a distance of 300 feet from the rear of the bicycle.

Cross reference--Riding bicycles on sidewalks, § 21-25.
State law reference--Operation of bicycles, G.L., C. 85, § 11B.

Sec. 13-41. Obedience to traffic-control signals.

Color and arrow indications in traffic-control signals shall have the commands ascribed to them in this section, and no other meanings, and every driver of a vehicle or conveyance shall comply therewith, except when otherwise directed by an officer or except as provided in section 13-47. In no case shall a driver enter or proceed through an intersection without a due regard to the safety of other persons or property within the intersection regardless of what indications may be given by traffic-control signals.

(a) *Green.* While the green lens is illuminated, drivers facing the signal may proceed through the intersection, but shall yield the right-of-way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such signal was exhibited.

(b) *Right, left and vertical green arrows.* When a right green arrow is illuminated, drivers facing the signal may turn right. When a left green arrow is illuminated, drivers facing the signal may turn left. When a vertical green arrow is illuminated, drivers facing the signal may go straight ahead. When a green arrow is exhibited together with a red or yellow lens, drivers may enter the intersection to make the movement permitted by the arrow, but shall yield the right-of-way to vehicles and pedestrians proceeding from another direction on a green indication.

(c) *Yellow.* While the yellow lens is illuminated, waiting drivers shall not proceed and any driver approaching the intersection or a marked stop line shall stop at such point unless he is so close to the intersection that a stop cannot be made in safety; provided, however, that if a green arrow is illuminated at the same time, drivers may enter the intersection to make the movement permitted by such arrow.

(d)(1) *Red.* Traffic facing a steady circular red signal alone shall stop at a clearly marked stop line; or if none, before entering the crosswalk on the near side of the intersection; or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown except as allowed by Chapter 89, Section 8 of the General Laws.

(2) No driver of a vehicle facing a circular red signal indicator shall make a right turn where official traffic signs are installed and maintained prohibiting such turns at the following intersections:

River, Marshall

and Houghton Streets	Eastbound and westbound on River Street Southbound on Houghton Street
Eagle, River and Canal Streets	All approaches
Ashland and Summer Streets	Eastbound on Summer Street
Artery, Center and Holden Streets	East and westbound on Center Street Eastbound on Artery Street Northbound on Holden Street

(e) *Red and yellow.* While the red and yellow lenses are illuminated together, drivers shall not enter the intersection and during such time the intersection shall be reserved for the exclusive use of pedestrians.

(f) *Flashing red.* A flashing red lens shall indicate those intersections at which a driver is required by law to stop before entering

(g) *Flashing yellow* flashing yellow lens shall indicate the presence of a hazard and drivers may proceed only with caution.

(h) *Flashing green.* A flashing green lens shall indicate an intersection or pedestrian crosswalk in use or subject to use by entering or crossing traffic. Drivers may proceed only with caution and shall be prepared to comply with a change in the signal to red or yellow indication. (Ord. of 11-13-1979; Ord. of 2-12-1980; Ord. of 8-12-1980)

Sec. 13-41. 1 Vehicle operation at crosswalks.

When traffic control signals are not in place or not in operation, the operator of a vehicle, which for purposes of this section shall also include bicycles, shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the roadway within a marked crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian approaches from the opposite half of the roadway to within five feet of that half of the roadway upon which the vehicle is traveling. (Ord. of 6-8-1999)

Sec. 13-42. Obedience to isolated stop signs or signals.

Every driver of a vehicle, railway car or other conveyance approaching an intersection of ways where there exists facing him an official sign bearing the word 'stop," or a flashing red signal indication, such sign or signal having apart from these rules and orders the written approval of

the State Department of Public Works and such approval being in effect, shall, before proceeding through the intersection, bring such vehicle, railway car or other conveyance to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then at the nearer line of crosswalk of such intersection. In the case of a line of two or more vehicles approaching such stop sign or flashing red signal indication, the drivers of the second and third vehicles in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device nor to a funeral procession as provided in Section 13-47.

In accordance with the foregoing, the erection and maintenance of an isolated stop sign or signs or flashing red signals, as the case may be, are authorized so as to face:

Angeli Street, at Greylock Avenue.

Ashland Street, northbound drivers at Main Street.

Bank Street, southbound drivers at Summer Street.

Barbour Street, eastbound drivers at Phelps Avenue; westbound drivers at Phelps Avenue.

Beaver Street, westbound drivers at Union Street.

Blackinton Street, eastbound drivers at Church Street.

Blackinton Street, eastbound drivers at Montana Street.

Bonair Avenue, north and southbound drivers at Barbour Street.

Bracewell Avenue, east and westbound drivers at North Holden Street.

Brown Street, northbound drivers at River Street.

Canal Street, southbound drivers at Union Street.

Center Street, westbound drivers at Marshall Street; westbound drivers at Holden Street.

Chantilly Avenue, north and southbound drivers at Barbour

Street.

Charlene Street, westbound drivers at Cliff Street.

Chase Avenue, southbound drivers at River Street, southbound drivers at Bracewell Avenue, northbound drivers at Bracewell Avenue.

Cliff Street, southbound drivers at Union Street.

Drury High School Driveway, westbound drivers at Church Street.

Eagle Street, southbound drivers at Main Street.

Elder Avenue, north and south drivers at East Avenue.

Elmwood Avenue, eastbound drivers at Church Street; westbound drivers at Church Street.

Furnace Street Bypass, eastbound drivers at State Street.

Furnace Street, northbound drivers at Reservoir Road.

Gallup Street, northbound drivers at Union Street.

Grant Street, at Angeli Street.

Gregory Avenue, northbound drivers at Cleveland Avenue.

Hadley Overpass, northbound drivers at Main Street.

Harris Street, northbound drivers at North Street.

Harris Street, southbound drivers at River Street.

Hawthorne Avenue, north and southbound drivers at Barbour Street.

Holbrook Street, eastbound and westbound drivers at Meadow Street.

Holden Street, northbound drivers at River Street.

North Holden Street, northbound at Bracewell Avenue and southbound at Bracewell Avenue.

North Holden Street, southbound drivers at River Street.

Houghton Street, southbound drivers at River Street.

Johnson Street, eastbound and westbound at Walker Street.

Lawrence Avenue, eastbound drivers at Corinth Street.

Liberty Street, eastbound and westbound drivers at North Holden Street; eastbound drivers at Eagle Street.

East Main Street, westbound drivers at Church Street; eastbound drivers at Union Street.

East Main Street, westbound at the intersection of Union Street and Walker Street.

Marshall Street, southbound drivers at Main Street; northbound drivers at River Street.

Miner Street, westbound drivers at East Main Street.

Miner Street, northbound drivers at Union Street.

Montana Street, northbound drivers at Blackinton Street; southbound drivers at Blackinton Street.

North Street, eastbound drivers at Houghton Street.

Notch Road, northbound drivers at West Main Street.

Old Union Street, eastbound drivers at Union Street (Route 2).

Park Avenue, northbound drivers at East Quincy Street; southbound drivers at East Quincy Street.

Phelps Avenue, northbound and southbound at Barbour Street.

Pleasant Street, northbound drivers at East Main Street; westbound drivers at Church Street.

Porter Street, eastbound drivers at Church Street.

Quincy Street, eastbound drivers at Church Street.

Rand Street, northbound drivers at Union Street.

Rich Street, westbound drivers at Kemp Avenue.

School Street, eastbound at the intersection of Veazie Street.

West Shaft Road, southbound drivers at intersection with new section of West Shaft Road.

Spring Street, eastbound drivers at Church Street.

South State Street, westbound drivers at its southerly intersection with the A. M. Curran Memorial Highway.

St. John's Municipal Parking Lot, eastbound drivers at Ashland Street.

Summer Street, eartbound drivers at Church Street.

Summer Street, eastbound drivers to K-Mart parking lot.

Summit Avenue, northbound drivers at East Quincy Street; southbound drivers at East Quincy Street.

Tyler Street, southbound drivers at River Street.

Veazie Street, southbound drivers at River Street.

Veazie Street, northbound and southbound at North Street.

Versailles Avenue, north and southbound drivers at Barbour Street.

Washington Avenue, eastbound drivers at Church Street.

Weber Avenue, eastbound drivers at Holden Street.

Williams Street, northbound and southbound at North Street.

Woodlawn Avenue, eastbound drivers on Woodlawn Avenue at Notch Road. [4-14-1964; 6-8-1965; 8-10-1965, §§ 3, 4; 1-26-1971; 12-9-1975, § 3; Ord. of 9-9-1980; Ord. of 7-13-1982; Ord. of 2-22-1983; Ord. of 1-14-1986; Ord. of 5-27-1986; Ord. of 9-22-1987; Ord. of 11-24-1987; Ord. of 7-12-1988; Ord. of 10-24-1989; Ord. of 3-13-1990; Ord. of 4-28-1992; Ord. of 9-22-1992; Ord. of 10-27-1992; Ord. of 11-24-1992; Ord. of 12-22-1992; Ord. of 7-27-1993; Ord. of 10-12-1993; Ord. of 2-26-2002 (two); Ord. of 12-27-2005; Ord. of 4-22-2008; Ord. of 7-27-2010]

Sec. 13-42.1. Obedience to yield signs.

In accordance with the provision of Chapter 89, Section 9, of the Massachusetts General Laws, the following streets are designated as yield streets at the intersections and in the direction indicated:

(a) *Holden Street*, southbound, right turn into Route 2.

(b) *Eagle Street*, southbound, at Franklin Street.

(c) Reserved.

(d) *Roberts Drive*, westbound, into Massachusetts Avenue. (Ord. of 11-13-1979; Ord. of 3-11-1980; Ord. of 9-9-1980; Ord. of 3-13-1990)

Sec. 13-43. One-way streets.[EN(65)]

Upon the following streets or parts thereof vehicular traffic shall move only in the direction indicated below:

Bank Street, southerly.

Blackinton Street, easterly, from Ashland Street to Montana Street.

Center Street, easterly from Marshall Street to Holden Street.

Corinth Street, southerly from the College Walkway to Bond Street.

Depot Square, southerly on the westerly side of the island therein; and continuing easterly to a point which is an extension of the easterly side of said island as extended in a southerly direction.

Depot Square, northerly on the easterly side of the island therein.

Eagle Street, southerly from Center Street to Main Street.

Hoosac Street, westerly.

Lawrence Street, easterly.

Montana Street, southerly.

North Church Street, northerly.

Old Union Street, southerly from Gallup Street to Murray Avenue.

Porter Street, westerly.

Quincy Street, westerly.

Spring Street, easterly from Chestnut Street to Church Street.

Summer Street, easterly from Ashland to Church Street and from American Legion Drive a distance of 160 feet; westerly from Ashland Street a distance of 226 feet.

Temple Street, easterly.

West Main Street, easterly between the southerly intersecting line of Veteran's Memorial Drive and the westerly intersecting line of High Street. (Ord. of 12-28-1971, § 3; Ord. of 4-26-1977, § 1; Ord. of 1-8-1985; Ord. of 7-27-1993; Ord. of 9-28-1993; Ord. of 11-27-2001)

Sec. 13-44. Keep to right of roadway division.

Upon any roadway divided by a parkway, grass plot, reservation, viaduct, or by any structure or area, driver shall keep to the right of such division except when otherwise directed by an officer, signals, signs or markings.

At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps and at any intersection of ways in which there are traffic islands, drivers of vehicles shall proceed only as indicated by official signs, signals or markings. (8-10-1965, § 4)

Sec. 13-45. Driving on road surfaces under construction or repair.

No driver shall enter upon the road surface of any street or highway or section thereof, when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface is closed to travel, and one or more signals, signs or lights have been erected or placed to indicate that all or part of the road surface of the

highway is not to be used, or when so advised by an officer, watchman, member of a street or highway crew or employee of the city, either audibly or by signals.

Sec. 13-46. Driving on sidewalks.

The driver of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.

Sec. 13-47. Funeral procession.

A funeral procession shall be identified as such by means of white pennants bearing a purple symbol attached to both the first and the last vehicles.

Each driver in a funeral procession shall keep as near to the right edge of the roadway as is feasible and follow the vehicle ahead as closely as is practicable and safe.

At an intersection where a traffic-control signal is operating, the driver of the first vehicle in a funeral procession shall be the only one required to stop for a red or red and yellow indication.

At an intersection where a lawful "stop" sign exists, the driver of the first vehicle in a funeral procession shall be the only one required to stop before proceeding through the intersection.(66)

State Law Reference-Funeral processions, MGL. C. 85, § 14A.[EN]

Sec. 13-47.1. Operation of heavy commercial vehicles.[EN(67)]

The use and operation of heavy commercial vehicles having a carrying capacity of more than two and one-half (2 1/2) tons are hereby restricted on the following named streets for parts thereof, and in the manner outlined and during the period of time set forth:

Massachusetts Avenue from Roberts Drive westerly to the Williamstown town line at all times. The alternate route shall be State Road (Route 2) between Roberts Drive and the Williamstown town line.

West Shaft Road from Mohawk Trail (Route 2) both entrances to Church Street at all times. The alternate route shall be Route 2 to Route 8.

This section shall not apply to heavy commercial vehicles going to or coming from places upon said streets for the purpose of making deliveries of goods, materials or merchandise to or similar collections from abutting land or buildings or adjoining streets or ways to which access cannot otherwise be gained; or to vehicles used in connection with the construction, maintenance and repair of said streets or public utilities therein; or to federal, state, municipal or public service

corporation-owned vehicles.

This section shall be in effect only during such times as official traffic signs are installed and maintained. (Ord. of 7-24-1979; Ord. of 2-9-1993)

ARTICLE V, . STOPPING, STANDING OR PARKING GENERALLY.[EN(68)]

Sec. 13-48. General prohibitions.

No person shall allow, permit or suffer any vehicle, trailer or semitrailer registered in his name or under his control ' except as hereinafter provided, to stand or park, in any street, highway or roadway in violation of any of the provisions of this chapter and in particular in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic signal or sign:

(a) Within an intersection, except where the installation of parking meters has been specifically approved by the department of public works of the commonwealth.

(b) Upon any sidewalk.

(c) Upon any crosswalk.

(d) Upon a roadway in a rural or sparsely settled district.

(e) Upon a roadway where parking, other than angle parking, is permitted, unless both wheels on the right side of the vehicle are within 12 inches of the curb or edge of the roadway; provided, however that upon one-way streets where parking is required or permitted on the driver's left side of such street, the 12 inches shall apply to both wheels on the left side of the vehicle.

(f) Where angle parking is permitted, unless the right front wheel of the vehicle is within six inches of the curb or edge of the roadway.

(g) Upon any roadway where the parking of a vehicle will not leavea clear and unobstructed lane at least 10 feet wide for passing traffic.

(h) Upon any roadway within five feet of a fire hydrant.

(i) In front of any private road or driveway.

(j) Within 15 feet of the wall of a fire station or directly across the street from such station, provided that signs are erected acquainting the driver of such restriction.

(k) Upon any roadway within 20 feet of an intersecting roadway, except a private road, driveway or alley.

(l) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(m) On any bridge, under pass, or within 25 feet thereof where official signs are erected.

(n) At any curb adjacent to the entrance of a church, theater or hotel, provided that official traffic signs are erected to notify motorists of the provisions of this prohibition.

(o) Upon any street, highway or roadway so as to obstruct the removal or plowing of snow or ice.

(p) Unattended within the limits of private ways furnishing means of access for fire apparatus to any building.

(q) For leaving of vehicles within parking spaces designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons and within certain other areas public or private.

(r) Upon any roadway, parking a trailer or semitrailer, registered or unregistered, which is not attached to a motor vehicle capable of towing it. For this purpose, a trailer or semitrailer would constitute any vehicle without motor power designed for carrying persons or property, being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. Parking of such equipment is permissible while actively loading or unloading or while being actively utilized for qualified public construction, a maintenance project, or other private project expressly permitted by the City of North Adams Public Safety Department. (8-10-1065, § 4; 4-26-1972; Ord. of 6-23-1987; Ord. of 10-27-1987; Ord. of 6-26-2007)[EN(69)]

Sec. 13-49. Parking prohibited on certain streets.

Upon the following streets or parts thereof parking is hereby prohibited:

American Legion Drive, easterly side, from a point 93 feet north of the center line of the K-Mart driveway opening, southerly a distance of 276 feet.

Arnold Place, northerly side the entire length. Southerly side from the southerly curbline of Church Street and extending easterly a distance of 234 feet.

Ashland Street, easterly side from Davenport Street to Summer Street except for a section beginning at a point 30 feet northerly from the westerly extension of the northerly curbline of

Washington Avenue, thence northerly 177 feet to a bus stop; and also another section beginning at a point 143 feet southerly from the westerly extension of the southerly curbline of Chestnut Street and extending southerly 216 feet. West side, beginning at a point 50 feet north of the extended northerly curbline of Bond Street, southerly to the southerly side of the Boston & Maine Railroad bridge abutment.

Bank Street, easterly side.

Barbour Street, northerly side from State Road to Brickyard Court.

Beaver Street, both sides between bridges spanning the Hoosac River; also, both sides from the Union Street intersection easterly a distance of 500 feet.

Blackinton Street, the southerly side from Church Street to Montana Street. Southerly side from Ashland Street easterly a distance of 50 feet.

Bond Street, both sides.

Bracewell Avenue, southerly side from Houghton to Eagle Street.

Bradley Street, north and south sides from Bradford Street to the entrance of the City park at Windsor Lake.

Brown Street, easterly side for a distance of 20 feet on each side of driveway into yard of Northern Berkshire Electric Company and Berkshire Gas Company. Westerly side from the Hoosac River to the Boston and Maine railroad overpass.

Cady Street, easterly side from the driveway of Johnson School, southerly 222 feet.

Canal Street, both sides.

Center Street, entire north and south side.

Chase Avenue, westerly and northerly sides from River Street to North Holden Street.

Chestnut Street, southerly side.

Church Street, easterly side within five feet of a walkway, driveway or private road from Bradley Street to Elmwood Avenue.

Church Street, easterly side 40 feet southerly from the intersection of Pleasant Street.

Church Street, westerly side from Summer Street to a point 148 feet southerly from the intersection of the south curbline of Davenport Street with the westerly curbline of Church Street. Easterly side from Bradley Street to the Boston and Maine railroad overpass. Easterly side from a point formed by the extension in an easterly direction of the southerly line of Blackinton Street to the curb on the easterly side of Church Street, thence running southerly along such easterly curb of Church Street 390 feet.

Cliff Street, westerly side from Union Street to Montgomery Street. Easterly side from the intersection at Union Street to a point 400 feet north of said intersection. Easterly side from the northerly curbline of Front Street extending 323 feet.

Corinth Street, to the easterly side from Bond Street to Davenport Street.

Corinth Street, east side from Lawrence Avenue to Bond Street.

Davenport Street, north side from Church Street for a distance of 50 feet.

Davenport Street, south side.

Eagle Street, easterly side from the intersection of the easterly line of Eagle Street and the northerly line of Union Street, northerly about 140 feet to the southerly property line of the Elks Home and from the northerly curbline of Canal Street, northerly 85 feet and from the southerly curbline of Canal Street, southerly 110 feet. Westerly side from the intersection of the westerly line of Eagle Street and the northerly line of Lincoln Street northerly 180 feet to point above fire hydrant located near St. Joseph's School and from the intersection of the westerly curbline of Eagle Street with the north curbline of Main Street northerly 104 feet and from the northerly curbline of River Street, northerly 35 feet and from the southerly curbline of River Street, southerly 180 feet.

Eagle Street, easterly side, from the southerly side of Hudson Street and extending southerly 100 feet.

East Main Street, northerly side from North Church Street to Gallup Street.

East Quincy Street, southerly side from Pleasant Street to Harrison Avenue except for one handicapped parking space beginning 335 feet easterly of the easterly curb of Wall Street extended northerly and extending therefrom easterly 22 feet. Northerly side from Summit Avenue westerly for a distance of 420 feet.

Francis Street, westerly side.

Franklin Street, southerly and easterly side from Eagle Street to the Clarksburg line. Westerly

and northerly side from Eagle Street to Northern Lights Avenue.

Frederick Street, northerly side.

Freeman Avenue, easterly side.

Furnace Street, both sides beginning at the northerly curbline of 85 Furnace Street and extending southerly 500 feet.

Furnace Street By-Pass, both sides from State Street to Furnace Street.

Hadley Overpass, easterly side from Main Street southerly for a distance of 220 feet. Westerly side from Main Street southerly for a distance of 150 feet.

Hall Street, northerly side from Eagle Street for a distance of 900 feet. Southerly side from a point 900 feet westerly from Eagle Street to North Holden Street.

Harris Street, easterly side from River Street to Hathaway Street.

Hermon Avenue, entire easterly side.

Hodges Cross Road, south and north sides, entire street.

Highland Avenue, east side.

Holbrook Street, southerly side.

Holden Street, westerly side. Easterly side from Veteran's Memorial Drive northerly 208 feet. Easterly side from Main Street northerly to Center Street.

Hoosac Street, north side, except that occupants of dwelling houses on such north side may park motor vehicles in front of their respective dwelling houses.

Houghton Street, both sides from River Street to Bracewell Avenue, westerly side from Bracewell Avenue to North Street.

Hudson Street, southerly side.

Hunter Foundry Road, entire length both sides. Jackson Street, southerly side.

Kemp Avenue, westerly side, Lake Street southerly to the East School driveway. Westerly side, for a distance of 100 feet running in a northerly direction from the intersection of the northerly

line of Bradley Street and the westerly line of Kemp Avenue. East and west sides from the northerly line of Bradley Street extending northerly to Rich Street.

Lawrence Avenue, north side. South side from the westerly curbline of Highland Avenue westerly 36 feet.

Liberty Street, northerly side from Houghton Street to Eagle Street.

Liberty Street, southerly side, from the intersection of the easterly curb line of Laurel Avenue extending easterly 11 feet.

Liberty Street, southerly side from the intersection of the westerly curbline of Laurel Avenue, extending westerly 15 feet.

Main Street, northerly side from Marshall Street westerly for a distance of 150 feet. Southerly side from Hadley Overpass to Phoenix Bridge. Southerly side, from a point 78 feet easterly of the easterly curb of Bank Street, thence 17 feet easterly.

Marshall Street, westerly side from a point 50 feet southerly of an extended south line of St. Anthony Drive to River Street. Easterly side from Center Street to River Street.

Massachusetts Avenue, north and south side beginning at Tyler Street in a westerly direction to Protection Avenue. North side from Doane's Lane west to Wood Street, except for 180 feet in front of present Honor Roll. North side from a point 200 feet easterly of Leonard Street thence westerly to the Williamstown Line. South side from Williamstown Line easterly 1,300 feet, south side opposite Leonard Street easterly 500 feet.

Meadow Street, easterly side from East Quincy Street to Holbrook Street.

Miner Street, westerly side. Easterly side, except for a section beginning at a point 150 feet southwesterly from the base line intersection of Union Street and Miner Street (said point being also 80 feet southwesterly from the street line intersection of Miner Street and Union Street) and extending therefrom southwesterly 275 feet.

Montana Street, easterly side from Lawrence Avenue to Porter Street. Westerly side between Porter and Blackinton Streets, except that occupants of dwelling houses within such section may park motor vehicles in front of their respective dwelling houses.

Montgomery Street, northerly side from Cliff Street to Prospect Street.

Morris Street, both sides.

North Church Street, easterly side from a point 219 feet northerly from Main Street to Eagle Street. Westerly side from a point 153 feet northerly from Main Street to Eagle Street.

North Holden Street, westerly side from River Street to Liberty Street.

North Street, from Williams Street to Cady Street, both sides.

Oak Hill, both sides where it intersects with the Old Mohawk Trail to terminate at a point 2,000 feet westerly.

Old Union Street, both sides from the Union Street intersection southerly a distance of 200 feet.

Perry Street, easterly side.

Phelps Avenue, westerly side for a distance of 50 feet from the southerly line of State Road extended across Phelps Avenue.

Pleasant Street, easterly side.

Porter Street, north side.

Porter Street, south side from Church Street for a distance of 58 feet.

Prospect Street, southerly side from Eagle Street for a distance of 570 feet.

Protection Avenue, westerly side from State Road extending southerly a distance of 212 feet.

Quincy Street, southerly side.

Rand Street, northeasterly side.

Richview Avenue, northwesterly side.

River Street, northerly side from a point 75 feet westerly of the west curbline of Houghton Street, to a point 70 feet easterly of the east curbline of Houghton Street and from the westerly curbline of Eagle Street westerly 80 feet. Southerly side from Eagle Street to the extended westerly line of Harris Street, except for a section beginning at a point 20 feet from the easterly curbline of Holden Street and extending easterly 60 feet.

River Street, southerly side, except for a section beginning at a point 344 feet from the easterly curbline of Holden Street and extending 85 feet.

River Street, northerly side of River Street at the intersection of Veazie Street extending westerly 45 feet.

St. Anthony Drive, both sides.

South Church Street, both sides, from Hodges Crossroads to a point 2,300 feet southerly.

South Street, southerly side from Spring Street to Washington Avenue.

Spring Street, both sides from South Street to Chestnut Street. Northerly side from Chestnut Street to Church Street.

State Street, at the intersection of Walnut Street a distance of an additional 40 feet in the northerly direction.

State Street, west side from the southerly side line of Walnut Street southerly 70 feet; east side from Hadley Overpass southerly 2,691 feet to Curran Highway.

Summer Street, northerly side except for a section beginning at a point 25 feet west of the curb intersection of Ashland Street and extending westerly 165 feet. Southerly side except for a section beginning at a point 30 feet west of the curb intersection of Ashland Street and extending westerly 142 feet and the section between Ashland Street and Church Street.

Temple Street, southerly side.

Union Street, southerly side from the intersection at Eagle Street to a point 40 feet west of the extended west line of Canal Street and from a point 270 feet east of the extended east side line of Canal Street to a point 975 feet east of the easterly line of Gallup Street, except for a section 20 feet from the intersection of Rand Street and extending easterly 96 feet. Northerly side, from Eagle Street to Johnson Street.

Veazie Street, easterly side at the intersection of River Street extending northerly 55 feet.

Veazie Street, westerly side from River Street northerly for a distance of 440 feet.

Veteran's Memorial Drive, both sides.

Walnut Street, westerly side from Furnace Street for a distance of 1,150 feet; both sides on that portion running in an easterly/westerly direction from State Street for a distance of approximately 350 feet.

Washington Avenue, southerly side, from Church Street to a point 220 feet from Ashland Street.

West Main Street, southerly side from Eagle Street easterly to the westerly side of Prospect Street.

West Main Street, southerly side from Phoenix Bridge to Brown Street, except for a section from a point 25 feet westerly of the intersection of Furnace Street and extending westerly 85 feet. Northerly side, beginning at a point 100 feet easterly from the intersection of the easterly line of Goodrich Street, thence extending westerly to a point 100 feet westerly of the intersection of west line of Goodrich Street; 157 feet from easterly curb line of Grime Street and extending easterly 57 feet. Southerly side, beginning at a point 20 feet easterly of the southerly extended east line of Goodrich Street and extending westerly to a point 20 feet westerly of the southerly extended west line of Goodrich Street.

West Shaft Road, both sides from the intersection with the Mohawk Trail extending southerly 4,150 feet to a point where the Tunnel Brook crosses West Shaft Road.

West Shaft Road extension, both sides from the Mohawk Trail extending southerly 2,200 feet to the intersection with the old West Shaft Road.

Windom Terrace, southerly side starting at a point 170 feet from the intersection of Church Street and extending easterly 145 feet.

Winter Street, entire southerly side.

Yale Street, westerly side, for a distance of 60 feet running in a southerly direction from Holbrook Street. [1-25-1966; 4-26-1966; 3-12-1968; 5-14-1968; 7-9-1968; 12-13-1968; 1-28-1969; 6-9-1970; 3-23-1971; 7-27-1971; 12-28-1971, § 2; 1-11-1972; 2-22-1972, § 1; 6-27-1972; 12-26-1972; 10-9-1973, §§ 2, 4; 12-10-1974; 7-22-1975; 12-9-1975, § 1; Ord. of 4-26-1977, § 2; Ord. of 7-25-1978; Ord. of 12-26-1978 (two); Ord. of 1-9-1979; Ord. of 6-26-1979; Ord. of 6-26-1979; Ord. of 7-10-1979; Ord. of 8-12-1980; Ord. of 9-9-1980; Ord. of 12-9-1980; Ord. of 9-22-1981; Ord. of 10-27-1981; Ord. of 3-23-1982 (two); Ord. of 7-13-1982; Ord. of 7-27-1982; Ord. of 1-11-1983; Ord. of 3-8-1983; Ord. of 4-26-1983; Ord. of 11-9-1983; Ord. of 4-10-1984; Ord. of 8-14-1984 (two); Ord. of 8-28-1984; Ord. of 1-8-1985; Ord. of 7-23-1985; Ord. of 10-8-1985; Ord. of 3-25-1986 (two); Ord. of 11-12-1986; Ord. No 10-13-1987; Ord. of 2-28-1989; Ord. of 10-24-1989; Ord. of 2-13-1990; Ord. of 5-22-1990; Ord. of 10-23-1990; Ord. of 5-14-1991; Ord. of 7-9-1991; Ord. of 10-22-1991; Ord. of 11-12-1991; Ord. of 6-9-1992; Ord. of 7-29-1992; Ord. of 3-23-1993; Ord. of 7-27-1993; Ord. of 9-28-1993; Ord. of 7-12-1994; Ord. of 10-10-1995; Ord. of 5-14-1996; Ord. of 1-14-1997 (two); Ord. of 6-10-1997; Ord. of 8-25-1998; Ord. of 11-10-1998; Ord. of 12-8-1998; Ord. of 4-13-1999; Ord. of 4-27-1999; Ord. of 5-25-1999; Ord. of 7-11-2000 (two); Ord. of 11-13-2001; Ord. of 11-27-2001; Ord. of 11-25-2003 (three); Ord. of 12-27-2005; Ord. of 4-25-2006; Ord. of 2-12-2008; Ord. of 6-10-2008; Ord. of 7-27-2010]

Sec. 13-50. Parking time limited on designated streets.

No person shall park a vehicle for a period of time longer than hereinafter provided between the hours of 9:00 a.m. and 6:00 p.m. of any day except Sundays and legal holidays upon the following streets and unmetered public parking lots or parts thereof.

(a) Ten-minute parking:

American Legion Drive, southerly side from a point 141.4 feet from the southwest curbline of the intersection of Ashland Street and American Legion Drive extending a distance westerly 66 feet.

Ashland Street, westerly side from a point 25 feet north of the intersection of Summer Street and extending northerly 61 feet.

Summer Street, northerly side from a point 25 feet west of the curb intersection of Ashland Street and extending westerly 165 feet.

Summer Street, southerly side from a point 30 feet west of the curb intersection of Ashland Street and extending westerly 142 feet.

West Main Street, southerly side from a point 25 feet westerly of the intersection of Furnace Street and extending westerly 85 feet.

(b) One-hour parking:

American Legion Drive, westerly side from Main Street to Summer Street; easterly side from the south curbline of Main Street extending 216 feet.

Ashland Street, westerly side from a point 41 feet south of the intersection of Main Street southerly to a point 86 feet north of the intersection of Summer Street.

Bank Street, westerly side from a point 123 feet south of Main Street southerly to Summer Street.

Eagle Street, westerly side from Main Street to Center Street.

Hadley Overpass, westerly side from Main Street southerly for a distance of 220 feet.

Holden Street, easterly side from Main Street to Center Street, with the exception of 91 feet southerly from the south curbline of Center Street.

Main Street, northerly side from Marshall Street to North Church Street; southerly side from Hadley Overpass to Church Street.

Morris Street, westerly side from Summer Street to a point 73 feet southerly.

St. John Municipal Parking Lot, the entire City parking lot situated southerly from Summer Street and westerly from Ashland Street.

State Street, westerly side, beginning at a point 153 feet south of the southerly line of Furnace Street extended easterly, thence southerly 298 feet.

(c) Two-hour parking:

Ashland Street, west side beginning at a point 50 feet of the extended northerly curbline of Bond Street and extending southerly 58 feet.

Ashland Street, westerly side from Summer Street to Chestnut Street. Easterly side from Main Street to Summer Street; and from a point 143 feet south from the southerly curbline of Chestnut Street extending 216 feet; and from a point 30 feet north of the northerly curbline of Washington Avenue and extending northerly 177 feet.

Church Street, easterly side from East Main Street to be extended to the southerly boundary of Spring Street. Westerly side from Main Street to Summer Street.

Eagle Street, easterly side from the southerly property line of the Elks Home northerly about 120 feet to the driveway southerly of LaValley Oil property. Westerly side from a point 180 feet northerly of the intersection of the westerly line of Eagle Street and the northerly line of Lincoln Street northerly to the intersection of the westerly line of Eagle Street and the southerly line of Sperry Avenue. Westerly side, beginning at a point being 20 feet south of the southerly curbline of Bracewell Avenue extended easterly, thence southerly 115 feet.

Holden Street, easterly side from Center Street to River Street.

Marshall Street, both sides from Main Street northerly for a distance of 520 feet.

North Church Street, easterly side from Main Street northerly 219 feet. Westerly side from Main Street northerly 153 feet.

Quincy Street, northerly side.

River Street, northerly side from Eagle Street to Temple Street.

Summer Street, southerly side from Ashland Street to Church Street.

Union Street, southerly side from the east line of Willow Dell to the extended westerly line of Cliff Street.

Walnut Street, easterly side from a point 350 feet southerly from the south curbline of Walnut Street and extending southerly 50 feet.

West Main Street, northerly side from Phoenix Bridge to Brown Street.

(d) Half-hour parking:

Bank Street, westerly side from Main Street southerly for 123 feet.

Grimes Street, northerly side beginning at a point 142 feet easterly from the intersection of the east curbline of Brown Street with the north curbline of Grimes Street and extending easterly for a distance of 45 feet.

(e) Reserved.

(f) Fifteen-minute parking:

Ashland Street, westerly side, beginning at a point being 30 feet north of the northerly line of Hoosac Street extended westerly; thence southerly 475 feet to a point being 200 feet south of the southerly line of Lawrence Avenue extended westerly. Westerly side, beginning at a point being 31 feet northerly of the point of intersection of the north line of Crowley Avenue with the west curbline of Ashland Street and extending northerly for a distance of 40 feet.

Ashland Street, westerly side, beginning at a point 203 feet south of the southerly line of Washington Avenue extended westerly; thence southerly 110 feet.

Blackinton Street, northerly side, beginning at a point 178 feet easterly of a monument at the intersection of Ashland Street and extending easterly a distance of 50 feet.

Center Street, southerly side, from a point 172 feet from the easterly line of Marshall Street and extending 106 feet in an easterly direction. Said area shall be for registry business only and shall be in effect Monday through Friday, 9:00 a.m. to 5:00 p.m. only.

Houghton Street, easterly side from Liberty Street to Brooklyn Street.

Marshall Street, easterly side, beginning at a point 20 feet from the southerly curbline of Center Street and thence southerly a total distance of 26 feet.

River Street, northerly side beginning at a point 210 feet easterly from Harris Street and thence easterly a total distance of 44 feet.

River Street, southerly side beginning 20 feet from the easterly curbline of Holden Street and extending easterly 35 feet.

River Street, southerly side beginning 344 feet from the easterly curbline of Holden Street and extending easterly 85 feet.

State Street, westerly side, beginning at a point 58 feet southerly from the center line of the traveled way of Morgan Avenue, thence southerly a total distance of 58 feet.

(g) Unlimited time.

Summer Street, north side from a point beginning 40 feet from the easterly line of American Legion Drive and extending in an easterly direction to the westerly extended line of the Police Department driveway, 106 feet. Said area shall be restricted to parking for "Police Vehicles Only."

Summer Street, south side from a point beginning 40 feet from the easterly line of American Legion Drive and extending in an easterly direction to the westerly extended line of the Police Department driveway, 106 feet. Said area shall be restricted to parking for "Police Business Only." [3-26-1968; 7-9-1968; 6-9-1970; 3-23-1971; 7-27-1971; 12-28-1971, § 2; 2-22-1972, § 2; 6-12-1973; 10-9-1973, §§ 1, 3; 11-13-1973; 12-9-1975, § 2; Ord. of 10-10-1978; Ord. of 1-9-1979; Ord. of 3-27-1979; Ord. of 4-10-1979; Ord. of 8-12-1980 (three); Ord. of 9-22-1981; Ord. of 3-23-1982 (six); Ord. of 9-15-1982; Ord. of 4-12-1983; Ord. of 6-28-1983; Ord. of 1-24-1984; Ord. of 4-10-1984; Ord. of 10-23-1984; Ord. of 7-9-1985; Ord. of 1-14-1986; Ord. of 11-24-1987; Ord. of 5-24-1988; Ord. of 5-22-1990; Ord. of 7-24-1990; Ord. of 7-9-1991; Ord. of 3-11-1992 (two); Ord. of 4-26-1994; Ord. of 7-12-1994; Ord. of 6-27-1995; Ord. of 10-10-1995; Ord. of 5-14-1996; Ord. of 12-8-1998; Ord. of 7-11-2000; Ord. of 1-8-2002; Ord. of 12-27-2005; Ord. of 2-12-2008]

Sec. 13-50.1. Other restricted parking times.

No person shall park a vehicle upon the following streets during the dates set forth herein:

Arnold Place, southerly side from a point beginning 234 feet from the southerly curbline of Church Street and extending to the end, from November 1 through April 30.

Blackinton Street, southerly side from Ashland Street to Montana Street from November 1 through April 30.

Houghton Street, easterly side from Bracewell Avenue to Liberty Street, from November 1 through April 30.

Richview Avenue, southeasterly side from West Main Street extending 485 feet southerly, from November 1 through April 30.

Washington Avenue, northerly side, from Ashland Street to the westerly curbline of Spring Street, from November 1 through April 30.

Williams Street, westerly side from a point beginning 160 feet northerly from the north curbline of School Street and extending 80 feet during the hours from 7:00 a.m. to 3:00 p.m., Monday through Friday through June 30, 1994.

And at such other times as ordered by the Commissioner of Public Safety or Commissioner of Public Services. (Ord. of 7-24-1990; Ord. of 11-12-1991; Ord. of 11-23-1993; Ord. of 7-12-1994; Ord. of 5-14-1996)

Sec. 13-51. Parking vehicles for sale prohibited.

No person shall park upon any street or highway any vehicle displayed for sale.

Sec. 13-52. All night parking.

No person shall park any vehicle, except in an emergency, on any street or highway for a period of time longer than one hour between the hours of 1:00 a.m. and 6:00 a.m. of any day. This ban shall be in effect from November 1 to April 30, or at such time that the Mayor declares a state of emergency. (Ord. of 5-24-1988)

(a) Year round: Montana Street, from the intersection of Hoosac Street to the intersection of Bond Street. (Ord. of 9-28-2011)

Sec. 13-53. Bus stops.

Parking is prohibited at bus stops, except for buses. No person shall park a bus within a business district at any place other than a bus stop, except an interstate bus while receiving or discharging passengers.[EN(70)]

Sec. 13-54. Taxicab stands.

Parking is prohibited at taxicab stands except for taxicabs, and no person shall park a taxicab upon any street within a business district at any place other than the taxicab stand or stands designated for the use of his taxicab or taxicabs except while engaged or while waiting for an opportunity to use the taxicab stand designated for his use.

Cross reference--Taxicabs, §§ 23'.1-23-6.

Sec. 13-55. Loading zones.

No person. shall park a vehicle in any loading zone on any street for a period of time longer than 15 minutes and then only while actually engaged in loading or unloading merchandise.

Sec. 13-55.1. Tow away regulations.

(a) *In general*. In accordance with the provisions of Chapter 40, Section 22D of the General Laws (Ter. Ed.), the city council of the City of North Adams hereby enacts the following regulations authorizing the removal to a convenient place of vehicles parked or standing in violation of any of the provisions of this Article V on any way under the control of the City of North Adams. Vehicles specifically exempt by Chapter 40, Section 22D shall not, however, be subject to to such removal.

(b) *Authorization of police.* The moving or towing of any vehicles under the provisions of this article shall be by and at the direction of the chief of police or such other officers of the rank of sergeant or higher as he may from time to time designate.

(c) *Fees.* The city council hereby imposes upon the owner of any vehicle moved or towed to a convenient place, under the provisions of this article, the following fees:

(1) Removal or towing fee--Not to exceed that which is provided in or as authorized by statute law.

(2) Storage fees--Not to exceed that which is provided in or as authorized by statute law.

(d) *Liability for damage during removal or storage.* The contractor shall be liable to the owner for any damage arising out of negligence caused to a vehicle in the course of removal and storage.

(e) *General prohibition towing zones.* No person shall stand or park or allow, permit or suffer any vehicle registered in his name to stand or park in any of the following places. Vehicles found in violation of the provisions of this section except those specifically exempt by law, shall be removed to a convenient place under the direction of an officer of the police department and the owner of the vehicle so removed or towed away shall be liable to the cost of such removal and storage, if any, as set forth in subsection (c) of this section. The owner of any vehicle removed or towed away under the provisions of this section shall also be subject to the penalties provided in Chapter 90, Section 20C of the General Laws (Ter. Ed.).

(1) Upon any way in such a manner as to impede the removal or plowing of snow or ice except vehicles parked in accordance with approved regulations governing all night parking.

(2) Upon any sidewalk.

(3) Upon any crosswalk.

(4) Upon any way within 20 feet of an intersecting way except alleys.

(5) Upon a way within 10 feet of a fire hydrant.

(6) On the roadway side of any vehicle stopped or parked at the edge or curb of the way.

(7) In front of a public or private driveway.

(8) Upon any way where the parking of a vehicle will not leave a clear and unobstructed lane at least (10) feet wide for passing traffic.

(9) Unattended within the limits of private ways furnishing means of access for fire apparatus to any building.

(10) For leaving of vehicles within parking spaces designated as reserved for vehicles owned and operated by disabled veterans or handicapped persons and within certain other areas public private.

(f) *Parking prohibitions, towing zone.* No person shall stand or park or allow, permit or suffer any vehicles registered in his name to stand or park on any of the ways or parts of ways hereinafter described and during the periods of time set forth. Vehicles found in violation of the provisions of this section except those specifically exempted by law shall be removed to a convenient place under the direction of an officer of the police department and the owner of the vehicle so removed, or towed away shall be liable for the cost of such removal and storage, if any as set forth in subsection (c) of this section. The owner of any vehicle removed or towed away under the provisions of this section shall also be subject to the penalties provided in Chapter 90, Section 20C of the General Laws (Ter. Ed.).

Ashland Street, westerly side from the north range line of building No. 297, southerly 206 feet to the south range line of building No. 315.

Blackinton Street, northerly side from Church street westerly for a distance of 60 feet. Southerly side from Church Street to Montana Street. Southerly side from Ashland Street easterly a distance of 50 feet.

Church Street, westerly side from Summer Street to a point 47 feet southerly from the intersection of the south curbline of Davenport Street with the westerly curbline of Church Street. Easterly side from Bradley Street to the Boston and Maine Railroad overpass. Easterly side from a point formed by the extension in an easterly direction of the southerly line of Blackinton Street to the curb on the easterly side of Church Street, thence running southerly along such easterly curb of Church Street 390 feet.

Corinth Street, east side from Lawrence Avenue to Bond Street.

Davenport Street, south side.

Highland Avenue, east side.

Hoosac Street, south side. North side, except that occupants of dwelling houses on said north side may park motor vehicles in front of their respective dwelling houses.

Montana Street, easterly side from Lawrence Avenue to Porter Street: Westerly side between Porter and Blackinton Streets, except that occupants of dwelling houses within such section may park motor vehicles in front of their respective dwelling houses.

Porter Street, northerly side.

(g) *Official traffic signs.* The provisions of subsection shall be effective only during such time as a sufficient number of official traffic signs bearing the legend 'tow-away zone" are installed, erected, maintained and located so as to be visible to approaching drivers, such signs to be appended above or incorporated into the legend of other parking regulating signs.

(h) *Police to keep record of towed vehicles.* The Police Department shall keep a record of all vehicles towed or removed under the provisions of this Article. Such record shall be retained for one year and shall contain the following information:

(1) The registration of the vehicle.

(2) The location from which it was towed, and time and date of tow order.

(3) The location to which it was moved.

(4) The fee charged for towing.

(5) Name of towing contractor, if any.

(6) Name and rank of officer who authorized towing. (12-9-1975, § 4; Ord. of 10-11-1977; Ord. of 9-22-1981; Ord. of 6-23-1987; Ord. of 10-27-1987; Ord. of 3-22-1988)

ARTICLE VI, . PARKING METERS. EN(71)

Sec. 13-56. Authority to install.

The Commissioner of Public Works is hereby authorized and directed to install or cause to be installed parking meters within the areas established by ordinance.

Sec. 13-57. Manner of installation; construction.

The meters shall be placed at intervals of not less than ten (10) feet apart where angle parking is

permitted, nor less than 20 feet apart where parallel parking is permitted and not less than 12 inches nor more than 24 inches from the face of the curb adjacent to individual meter spaces. The meters shall be so constructed as to display a signal showing legal parking upon deposit therein of a proper coin of the United States, as indicated by ordinance.

Sec. 13-58. Parking meter zones.

In accordance with the provisions of Section 13-56, parking meter zones are hereby established (to be in effect from 9:00 a.m. until 5:00 p.m., unless otherwise noted) in the following streets or parts thereof, and municipal parking lots.

(a) *One-hour zone:*

Main Street, northerly side from Marshall Street to Eagle Street. Southerly side from Hadley Overpass to Ashland Street.

(b) *Two-hour zone*:

American Legion Drive, westerly side from the south curbline of Main Street southerly three hundred thirty-three and three-tenths (333 3/10) feet. Easterly side from the line of the south curbline of Main Street southerly three hundred eleven feet.

Ashland Street, easterly side from Main Street to Summer Street. Westerly side from Main Street to St. John Municipal. Parking Lot.

Church Street, both sides from Main Street to the extended southerly boundary of Summer Street.

Eagle Street, westerly side from Main Street to Center Street.

East Main Street, southerly side from a point commencing 24.5 feet from the easterly line of Church. Street for a distance of 128 feet easterly.

Main Street, northerly side from Eagle Street to North Church Street. Southerly side from Ashland Street to Church Street.

Marshall Street, both sides from Main Street northerly for a distance of 520 feet.

Union Street, southerly side from a point commencing 18 feet westerly from the westerly line of Willow Dell for a distance of 115 feet westerly therefrom.

(c) Reserved.

(d) *Municipal parking lots*:

North Church Street, easterly side from Main Street northerly 219 feet. Westerly side

from Main Street northerly 153 feet. Summer Street, southerly side from Ashland Street to Church Street.

Summer Street, southerly side from Ashland Street to Church Street.

St. Anthony Drive, meters shall be unlimited as to time from 8:00 a.m. to 5:00 p.m.

Depot Square, no person shall park a vehicle for a period of time longer than four hours between the hours of 8:00 a.m. and 5:00 p.m. of any day except Sundays and legal holidays.

(e) *Long-term parking*:

East Main Street, southerly side, beginning at a point 152.2 feet from the easterly line of Church Street and extending easterly a distance of 148 feet.

North Church Street, easterly side from Main Street northerly 219 feet. Westerly side from Main Street northerly 153 feet. Meters shall be unlimited as to time from 8:00 a.m. to 5:00 p.m.

St. John Municipal Parking Lot, beginning at a point 94 feet west of the westerly curbline of Ashland Street, thence continuing in a westerly direction a distance of 46 feet to establish 10 long-term parking spaces.

Summer Street, southerly side from Ashland Street to Church Street. (3-26-1968; 12-13-1968; 6-9-1970; 2-22-1972, § 3; Ord. of 12-10-1985; Ord. of 4-8-1986; Ord. of 7-9-1991; Ord. of 5-25-1993; Ord. of 12-27-1994; Ord. of 4-25-1995; Ord. of 6-27-1995; Ord. of 11-12-2003; Ord. of 2-12-2008)

Sec. 13-59. Proper method of using meter and space generally.

(a) Whenever any vehicle shall be parked in a parking meter space adjacent to a parking meter, the operator of such vehicle shall park within the space designated by the marking lines for the space, and upon entering such parking meter space shall immediately deposit in the meter the required coin for the maximum legal parking period or portion thereof, as designated on the meter.

(b) It shall be unlawful for a person to park a vehicle within a parking meter space, unless such vehicle is wholly within the painted lines adjacent to the meter.

(c) It shall be unlawful for any person to fail or neglect to deposit the required coin as indicated on the meter.

(d) It shall be unlawful for any person to deposit or cause to be deposited in a parking meter any coin for the purpose of permitting the vehicle of which he is in charge to remain in a parking

space beyond the minimum period of time allowed in that particular zone. Said vehicle must move at least five parking spaces on street meter parking only.

(e) During those periods of time in which meters are not in operation where parallel parking is permitted, motorcycles may be parked no more than three to a metered space, backed to the street curbing at an angle of 45° and faced in the direction to which they are headed. (4-26-1966; Ord. of 3-25-1997)

Sec. 13-60. Commercial vehicles.

Operators of commercial vehicles may park in a metered space without depositing a coin or coins for a period not to exceed 15 minutes for the purpose of loading or unloading.

Sec. 13-61. Fees for different parking zones.

(a) The fee for parking time in one-hour zones shall be $0.05 for each 1/2 hour or $0.10 for one hour.

(b) The fee for parking time in two-hour zones shall be $0.05 for 1/2 hour or $0.10 for each hour.

(c) The fee for parking time in the St. Anthony Drive parking lot shall be $1 for a period of 10 hours, $0.25 for each 21/2 hours, with a maximum limit of 10 hours, commencing at 8:00 a.m. until 5:00 p.m. A monthly parking permit may be purchased for use of the St. Anthony Drive parking lot. The cost of a permit shall be $20 from May through November and $15 from December through April.

(d) A certain number of long-term daytime parking spots shall be allotted in the Center Street Parking Lot annually at a rate of $30 per month. Long-term and overnight parking spots shall also be designated at a rate of $35 per month. If the demand for daytime or overnight long-term parking in the Center Street Lot exceeds the number of spots allotted, a lottery shall be held to determine the distribution of the spots. This lottery shall be held in December of each year. Businesses. or organizations purchasing in excess of two long-term daytime or overnight parking spaces shall pay a minimum of six months in advance. All others shall pay three months in advance.

The balance of spaces in the Center Street Parking Lot which have not been designated as long-term daytime or overnight parking spaces shall be available free of charge for a maximum time limit of two hours. Parking tine in excess of the free two-hour maximum in the Center Street Parking Lot shall be $1 for a total of four hours and an additional $0.50 per hour thereafter.

For the purpose of this section, long-term parking shall be defined as 7:00 a.m to 6:00 p.m.

(e) The fee for meters on both the easterly and westerly side of North Church Street shall be $0.25 for each 21/2 hours, with a maximum limit of 10 hours, commencing at 8:00 a.m. until 6:00 p.m. These meters will take straight quarters only, no small change. East Main Street, southerly side at a point 152.5 feet from the easterly line of Church Street and extending easterly a distance of 148 feet.

As a matter of convenience to the users, the meters in all parking zones will accept quarters, but they will only purchase the maximum time allowed on that meter. (6-26-1973; Ord. of 5-8-1984; Ord. of 9-11-1984; Ord. of 12-10-1985; Ord. of 8-13-1991; Ord. of 7-13-1993; Ord. of 4-25-1995; Ord. of 7-11-2000; Ord. No. 11-12-2003)

Sec. 13-62. Collection and disposition of fees.

The Chief of Police is hereby designated as the person authorized to collect or cause to be collected moneys deposited in parking meters. Such moneys shall be deposited forthwith with the City Treasurer, who shall make a record of the amount collected and there shall be set up in the office of the City treasurer a separate account to be known as "City of North Adams Parking Meter Account."

All fees received by the City Treasurer from the operation of parking meters shall be used by the City as authorized by General Laws, Chapter 40, Section 22A et seq.

Sec. 13-63. Assumption of risk in municipal parking areas.

(a) *Property damage.* By parking a vehicle on a municipal parking area the owner and operator thereof shall assume all risk, responsibility and liability for any theft thereof or of property therein, and for any loss or damage thereto or to any property therein, caused by or resulting from any cause whatever; and the exercise of the license, permit or privilege of parking a vehicle on a municipal parking area under the terms and provisions of this article shall constitute and operate as a release and discharge of the city from any responsibility, obligation or liability for the theft thereof or of any property therein, and for any loss or damage thereto or to any property therein, caused by, or resulting from any cause whatever.

(b) *Personal injury.* Any person, including, but not limited to the owner operator or occupant of any vehicle going in, on, upon, over or across any municipal parking area, whether on foot or in a vehicle, for or in connection with any purpose authorized or permitted under this article shall, by virtue of such act, assume all risk, responsibility and liability for injuries to his person, or for death, resulting from any cause whatsoever; and the exercise of the license, permit or privilege of being on such municipal parking area under the terms and provisions of this article shall constitute and operate as a release and discharge of the city from any responsibility,

obligation or liability for all personal injuries for death, or for any and all losses, claims or damages arising or resulting from or in consequence of such injuries or death.

Sec. 13-64. Tampering with, etc., meters; deposit of slugs, etc. [EN(72)]

It shall be unlawful for any unauthorized person to tamper with, break, injure or destroy any parking meter or to deposit or cause to be deposited in the meter any slugs, device or metallic substance or any other substitute for the coins required.

Sec. 13-65. Penalty.

Any person who violates any parking provisions of this article shall be subject to the penalties provided by General Laws, chapter 90, section 20A, and any other violation shall be punishable as may be provided by law.

ARTICLE VII. Pedestrian Control Regulations.

Sec. 13-66. Pedestrians crossing ways or roadways.

Pedestrians shall obey the directions of police officers directing traffic and whenever there is an officer directing traffic, or a traffic control signal within three hundred feet of a pedestrian, no such pedestrian shall cross a way or roadway except within the limits of the marked crosswalk at the signalized location and as hereinafter provided in these regulations. For the purpose of these regulations, a marked crosswalk shall only be construed to be that area of a roadway, reserved for pedestrian crossing located between two solid white reflectorized twelve-inch pavement markings in rural areas or a markings not less than six inches wide in urban areas, such markings or lines being no less than six feet apart. (5-13-69.)

Sec. 13-67. Pedestrian actuation.

(a) At a traffic-control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian pushbutton, a pedestrian shall not cross a roadway unless or until the pedestrian-control signal pushbutton has been actuated and then cross only on the proper pedestrian signal indication. At traffic-control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the green indication shall be actuated by the pedestrian by means of a pushbutton.

(b) At a traffic-control signal location, pedestrians shall yield the right of way to vehicles of a

funeral or other procession or authorized emergency vehicle while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway until such vehicle or procession has passed at which time pedestrians shall then cross the roadway only as provided in these regulations. (5-13-69.)

Sec. 13-68. Pedestrian obedience to traffic-control signals.

Traffic-control signal color indications and legends shall have the commands ascribed to them in this section and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

(a) Red and yellow or the word WALK. Whenever the red and yellow lenses are illuminated together or the single word walk is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only.

(b) Red alone or DON'T WALK. Whenever the words DON'T WALK or any indication other than red and yellow shown together are illuminated in a traffic-control signal where pedestrian indications are provided, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the proper indication is illuminated in the traffic-control signal, but any pedestrian who his partially completed his crossing on the walk indication shall proceed or return to the nearest sidewalk or safety island on the yellow indication, the red indication or when the words DON'T WALK are illuminated by rapid intermittent flashes.

(c) Green alone. At traffic-control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.

(d) Yellow alone, red alone or flashing DON'T WALK. Pedestrians approaching or facing a yellow, red or flashing DON'T WALK illuminated indication shall not start to cross a roadway.

(e) Flashing red, yellow or green. At any traffic-control signal location where a flashing red, yellow or flashing green indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian signal indication and cross the roadway only on the red, yellow or WALK indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care. (5-13-1969)

Sec. 13-69. Pedestrian crossings and use of roadways.

It shall be unlawful for any person to actuate a pedestrian-control signal unless a crossing of the roadway is intended. (5-13-1969.)

Sec. 13-70. Operators to exercise due care.

The provisions of these regulations shall in no way abrogate the provisions of chapter 90, sections 14 and 14A of the General Laws which provide: "Precautions for Safety of Other Travelers" and for the "Protection of Blind Persons Crossing Ways." Furthermore, notwithstanding the provisions of these regulations every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian upon the roadway, and shall give warning by sounding the horn when necessary and shall exercise proper precautions which may become necessary for safe operation. (5-13-1969.)

Sec. 13-71. Officers to enforce pedestrian regulations.

These pedestrian control regulations shall be enforced by all officers of the city on and after September 1, 1969. (5-13-1969.)

Sec. 13-72. Exemptions.

The provisions of these rules and regulations governing the use of ways by pedestrians shall not apply to pedestrians actually engaged in work upon a roadway closed to travel or under construction or repair, to municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties or to pedestrians acting in an emergency when such emergency necessitates departure from any part of these rules and regulations. (5-13-1969.)

Sec. 13-73. Penalties.

Any person who violates the provisions of this article which deal with the proper use of ways by pedestrians shall be punished as provided in chapter 90, section 18A of the General Laws. (5-13-1969.)

Sec. 13-74. Effect of regulations.

All existing rules and regulations governing the operation of vehicles or the use of ways by pedestrians which are inconsistent herewith are hereby expressly repealed. This repeal shall not, however, affect any punishment or penalty imposed or any complaint or prosecution pending at the time of passage hereof for any offense committed under any of such rules and regulations hereby repealed.

If any section, subsection, sentence, clause or phrase of these rules and regulations is for any

reason [found] unconstitutional, such decision shall not affect the validity of the remaining portion of these rules and regulations. The city council hereby declares that they would have passed these rules and regulations and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional. (5-13-1969.)

CHAPTER 14. OFFENSES - MISCELLANEOUS.

Sec. 14-1. Bathing in the nude in public.

No person in a state of nudity shall bathe in any pond or stream or any place exposed to public view within the city limits.

Sec. 14-2. Curfew.

(a) No person under the age of 16 years shall be or remain upon any street after 10:00 p.m. or before 6:00 a.m. unless accompanied by a parent, guardian or other person having legal custody of such minor or unless such minor is in the performance of an errand or duty directed by a parent, guardian or other person having legal custody of such minor, or unless the lawful employment of such minor makes it necessary for him to be upon the street during such hours; provided, however, that the foregoing exceptions shall not be applicable when such minor is playing or unnecessarily loitering in or upon the street, whether he is alone or accompanied by another person.

(b) No parent, guardian or other person having legal custody of a person under the age of 16 years shall permit such minor to be in or upon any street after 10:00 p.m. or before 6:00 a.m. except as provided hereinabove.

(c) No person under the age of 16 years arrested under the provisions of this section shall be placed or held in confinement until the parent, guardian or other person having legal custody shall have been notified and shall have refused to be responsible for the observance of the provisions of this section by such minor.

Sec. 14-3. Reserved.[EN(73)]

Sec. 14-3.1. Drinking or possessing alcoholic beverages in public places.

(a) No person shall drink or possess in an open or partially consumed container any alcoholic beverages as defined in MGL c. 138, § 1, while on, in or upon any public way or public place to which the public has a right of access, excluding premises licensed under said Chapter 138, or in, on or upon private lands without the consent of the owner or person in control thereof. (Ord. of 10-26-1976, §§ 1, 2; Ord. of 2-9-1999)

Sec. 14-4. Disorderly conduct.

No person shall engage in fighting or threatening, or in violent or tumultuous behavior, or create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor. A person who engages in such conduct with the purpose to cause public inconvenience, annoyance, alarm or recklessly creating a risk thereof shall be guilty of disorderly conduct. "Public" as used herein shall mean affecting or likely to affect persons in a place to which the public or a substantial group has access. (Ord. of 7-28-1981)[EN(74)]

Sec. 14-4.1. Noise.

(a) No person shall willfully or intentionally permit or cause a noise which is objectionable due to volume, intermittence, beat frequency or shrillness to be transmitted outside the property where it originates, and in no case shall such noise exceed 65 decibels at any property line. (Ord. of 7-22-1986; Ord. of 2-9-1999)

Sec. 14-5. Firearms--Discharging.

No person shall discharge any gun, pistol or other firearm within the settled section of the city, provided that this section shall not apply to the use of such weapons in the lawful defense of the person, family or property or in the performance of any duty required by law, nor to the firing of a salute or cannon or artillery by permission of the City Manager, nor to public or private shooting galleries which have been inspected and approved by the Chief of Police (Commissioner of Public Safety).[EN(75)]

Sec. 14-6. Reserved.[EN(76)]

Sec. 14-7. Injuring public property, etc.

No person shall mar, injure or deface any public building, police signal box, fire alarm signal box or other city property or attach any handbill, advertisement or drawing thereto.[EN(77)]

Sec. 14-8. Loitering, etc.--In public buildings.

No person shall loiter upon the steps of or on any other projection from any church, hotel, hall or public building, or in any hall, space or way leading thereto, so as to incommode or obstruct the passage to or from such church, hall, hotel or building. Every person so loitering shall, when so ordered by a member of the Police Department (division), watchman, owner, agent or other person having charge of such church, hotel, hall or other public building, immediately depart therefrom.

Sec. 14-8.1. Same--On public sidewalks.

(a) The word "obstruct," as used in this section, shall mean to stand or loiter in or on a public sidewalk [in a manner] that hinders, impedes or blocks a way of passage or prevents progress thereon when there is no alternative course of travel available in or on such sidewalk being used by travelers or pedestrians.

(b) No person shall stand or loiter on a public sidewalk who, together with another or others, obstructs the free passage of travelers or pedestrians thereon; and no person shall hinder, impede or block the free and open ingress and egress to and from any stairway, doorway, vestibule or passageway leading to any business enterprise or building, after being requested by a member of the Police Department (division) or any person to permit travelers and pedestrians unobstructed passage on such sidewalk or to and from any business enterprise or building.

(c) No person shall jostle or roughly crowd members of the public on a public sidewalk. (5-25-1965)

Sec. 14-8.2. Same--In the nighttime.

No person shall, in the nighttime, be in or about public or private buildings or premises within the city where he has no right or permission to be, under suspicious circumstances, and without being able to give satisfactory account of the same. (3-22-1966; 4-12-1966)

Sec. 14-9. Peeping toms.

No person, except an officer of the law in the performance of his duties, shall enter upon the premises of another or upon any public property with the intention of peeping into the windows of a house or other building or of spying in any manner upon any person or persons therein.

Secs. 14-9.1 through 14-9.2. Reserved. [EN(78)]

Sec. 14-10. Reserved. [EN(79)]

Sec. 14-11. Minors in possession of tobacco.

No person under the age of 18 may purchase or possess a cigarette, chewing tobacco, snuff, cigar or any tobacco in any forms except in the event of a Board of Health Compliance Check. Any person who violates this section may be subject to the confiscation of the tobacco product by the police, who may also notify the violator's parent(s) or legal guardian(s) of the violation. (Ord. of 5-13-1997)

CHAPTER 15. LITTER.

Sec. 15-1. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) *Authorized private receptacle* is a litter storage and collection receptacle.

(2) *City* is the City of North Adams.

(3) *Handbill* is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature.

(4) *Garbage* is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

(5) *Litter* is *garbage, refuse*, and *rubbish* as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

(6) *Newspaper* is any newspaper of general circulation as defined by general law, any

newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public.

(7) *Park* is a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

(8) *Person* is any person, firm, partnership, association, corporation, company or organization of any kind.

(9) *Private premises* is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, ground, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(10) *Public place* is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, ground and buildings.

(11) *Refuse* is all putrescible and nonputrescible solid wastes (except body waste), including garbage, rubbish, ashes, sand, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(12) *Rubbish* is nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, metal, glass, bedding, crockery, dead trees, and weeds, vines, briars or vegetation, and similar materials.

(13) *Vehicle* is every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Ord. of 6-14-1988)

Sec. 15-2. Litter in public places.

No person shall throw or deposit litter in or upon any streets, sidewalk or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in official city dumps. (Ord. of 6-14-1988)

Sec. 15-3. Litter on occupied private property.

No person shall throw or deposit litter on any occupied private property within the city, whether

owned by such person or not, except that the owner or person in control of such private property may maintain authorized receptacles for collection. (Ord. of 6-14-1988)

Sec. 15-4. Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not. (Ord. of 6-14-1988)

Sec. 15-5. Litter in parks.

No person shall throw or deposit litter in any park within the city except in public receptacles. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein. (Ord. of 6-14-1988)

Sec. 15-6. Litter in lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, river, wetlands, or any other body of water in a park or elsewhere within the city. (Ord. of 6-14-1988)

Sec. 15-7. Sweeping litter into gutters.

No person, including the owner or occupant of a place of business, shall sweep into or deposit in any gutter, street, or other public place within the city, the accumulation of litter from any building or lot, or from any public or private sidewalk or driveway or property. (Ord. of 6-14-1988)

Sec. 15-7.1. Throwing snow and ice into streets.

No person, including the owner or occupant of a place of business, shall throw or put, or cause to be put or thrown, any snow or ice into any street. (Ord. of 6-14-1988)

Sec. 15-7.2. Washing vehicles in streets.

No person shall wash or clean or cause to be washed or cleaned any vehicle in any street. (Ord. of 6-14-1988)

Sec. 15-8. Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property. (Ord. of 6-14-1988)

Sec. 15-9. Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley, or other public place or private premises. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry into or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind to and from any construction site. (Ord. of 6-14-1988)

Sec. 15-10. Throwing or distributing handbills in public places.

No person shall throw or deposit any handbill in or upon any sidewalk, street or other public place within the city. Nor shall any person hand out or distribute or sell any handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to accept it. (Ord. of 6-14-1988)

Sec. 15-11. Placing handbills on vehicles.

No person shall throw, deposit, or place any handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a handbill to any occupant of a vehicle who is willing to accept it. (Ord. of 6-14-1988)

Sec. 15-12. Depositing handbills on uninhabited or vacant premises.

No person shall throw or deposit any handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Ord. of 6-14-1988)

Sec. 15-13. Posting notices prohibited.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any, lamp post, public utility pole or shade tree, or upon any public

structure or building, except as may be authorized or required by law. (Ord. of 6-14-1988)

Sec. 15-14. Dead animals, etc.; throwing into streams, etc.

No person shall throw the carcass of any dead animal or other substance which is likely to putrefy into any pond, stream, wetlands, or other body of water, or leave such carcass or substance on the surface of the ground or insufficiently buried. (Ord. of 6-14-1988)

Sec. 15-15. Spitting in public places.

No person shall spit upon the floor of any room, hall or entrance in any public building of the city, or upon any public street or sidewalk. (Ord. of 6-14-1988)

Sec. 15-16. Placement of litter in receptacles so as to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, park or other public place within the city, or upon private property whether owned by such person or not. (Ord. of 6-14-1988)

Sec. 15-17. Keeping sidewalks free of litter.

Persons owning or occupying property, including places of business, within the city shall keep the sidewalks in front of and abutting their premises free of litter. (Ord. of 6-14-1988)

Sec. 15-18. Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (Ord. of 6-14-1988)

Sec. 15-19. Eaves and gutters discharging into streets and sidewalks.

No person shall permit water from the eaves and/or leader pipes of any building owned or cared for by said person to be discharged upon any street or sidewalk. (Ord. of 6-14-1988)

Sec. 15-20. Draining sink, etc., water into streets and sidewalks.

No person shall allow any sink water or other impure water to run habitually from any house, barn, garage, or other structure occupied or under the control of said person, onto the surface of any street or sidewalk. (Ord. of 6-14-1988)

Sec. 15-21. Distribution of handbills and newspapers on inhabited private property.

Persons placing or distributing handbills and/or newspapers in or upon private premises which are inhabited shall do so in such a manner as to prevent such from being scattered, carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property. (Ord. of 6-14-1988)

Sec. 15-22. Burning of litter on private property.

No person shall burn litter on private property, whether in the open or in an outdoor incinerator or fireplace. Except, however, that the following is allowed upon receipt of a permit from the fire division of the city.

(a) Brush, cane, driftwood, and forestry debris, but not grass, grass clippings, hay, leaves, and stumps, from other than commercial or industrial land clearing operations between January 15-May 1.

(b) Materials normally associated with the pursuit of agriculture, such as fruit tree prunings, dead raspberry stalks, blueberry patches for pruning purposes, and infected beehives for disease control.

(c) Trees and brush resulting from agricultural land clearing.

(d) Fungus-infected elmwood, if no other acceptable means of disposal is available.

(e) Christmas trees from December 26 to January 7 of each year. (Ord. of 6-14-1988)

Sec. 15-23. Clearing of litter from private property by the city.

(a) *Notice to remove.* The health inspector is hereby authorized and empowered to notify the owner of any private property within the city, or agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered or certified mail, addressed to such owner at his/her last known address.

(b) *Action upon noncompliance.* Upon the failure, neglect or refusal of any owner, or agent so notified, to properly dispose of litter dangerous to public health, safety or welfare within seven (7) days after receipt of written notice provided for in subsection (a) above, or within ten (10) days after the date of such notice in the event the same is returned to the city post office department because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the health inspector is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the city and inform the city solicitor thereof, who shall, in addition to penalties as prescribed in section 15-24, institute appropriate proceedings to collect such expense incurred from the owner.

(c) *Charge included in tax bill.* When the city has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of ten (10) percent per annum from the date of the completion of the work, and penalties incurred prior to completion of said work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the city and said charge shall be due and payable by said owner at the time of payment of such bill. Such claim for the expense by the city shall constitute a debt due the city upon completion of the work and the rendering of an account thereof to the owner, and is recoverable from the owner in an action of contract, together with interest thereon at the rate of ten (10) percent per annum from the date said debt becomes due and payable.

(d) *Recorded statement constitutes lien.* Where the full amount due the city is not paid by such owner within thirty (30) days after the disposal of such litter, as provided for in this ordinance, then the board of health or city may cause to be recorded, in the Northern Berkshire Registry of Deeds, a sworn statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done. The recording of such sworn statement shall constitute a lien on the property, and shall remain in full force and effect for the amount due in principal and interest, plus cost of court, if any, for collection. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes. Such lien may be dissolved by filing with said registry of deeds a certificate from the collector of taxes. that the debt for which the lien attached, together with interests and costs thereon, has been paid or abated. Such collector shall have the same powers and be subject to the same duties with respect to such claim as in the case of the annual taxes upon real estate; and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for nonpayment thereof, and the redemption of land so sold or taken shall apply to such claim. (Ord. of 6-14-1988)

Sec. 15-24. Penalties.

Violation of any of the provisions of Sections 15-2 through 15-15 and 15-22 of this chapter shall be governed by the provisions of Chapter 29. (Ord. of 10-27-1998)

Sec. 15-25. Enforcement.

The provisions of this chapter shall be enforced by the Health Inspector and the Commissioner of Public Safety or his designees. (Ord. of 6-14-1988)

Sec. 15-26. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (Ord. of 6-14-1988)

CHAPTER 15A. RESERVED[EN(80)]

(81)

Chapter 15B, DUMPING

No person shall deposit, dump or store garbage, trash, hazardous or nonhazardous waste, toxic or nontoxic chemicals, unregistered motor vehicles, parts of motor vehicles, tires, scrap metal, building materials of any type, household or industrial furnishings, or appliances in or on any public or private way or in or upon any City-owned property. (Ord. of 8-14-2007)

Sec. 15B-1. Dumping

Sec. 15B-2. Penalties.

Violation of any provision of Section 15B-1 shall be governed by the provisions of Chapter 29, Section 29-2. (Ord. of 8-14-2007)

Sec. 15B-3. Enforcement.

The provisions of this chapter shall be enforced by the Health Director, Code Enforcement Officer and the Commissioner of Public Safety or his designee. (Ord. of 8-14-2007)

Sec. 15B-4. Removal of material.

Any person fined for dumping shall be responsible for all associated costs with the removal of materials. (Ord. of 8-14-2007)

(82)

CHAPTER 16. RESERVED EN(83)

(84)

CHAPTER 17. RESERVED EN(85)

(86)

CHAPTER 18. PURCHASES AND CONTRACTS. EN(87)

ARTICLE I. IN GENERAL

Sec. 18-1. Contracts or purchases of less than ten thousand dollars.

All purchases of supplies or contractual services of less than the estimated value of $10,000 shall be made in conformance with the provisions of General Laws, Chapter 30B. (12-12-67; Ord. of 9-23-88; Ord. of 6-12-90)

ARTICLE II. CONTRACTS OR PURCHASES INVOLVING FIVE THOUSAND DOLLARS OR MORE

Sec. 18-2. General regulations as to execution, bond, form, etc.

All contracts made by any department, board or commission of the city where the amount involved is $5,000 or more shall be in writing. No contract shall be deemed to have been made or executed until approval by the mayor and also the officer or head of the department or chairman

of the board, as the case may be, has affixed thereto his signature.

Any contract may be required to be accompanied by a bond with surety satisfactory to the board or official having the matter in charge, or by a deposit of money, certified check or other security for the satisfactory performance thereof. Such bond, money, certified check or other security, if required, shall be deposited with the city treasurer until the contract has been carried out in all respects. No contract shall be altered except by written agreement of the contractor, the surety on the bond, if any, and the officer, department or board, as the case may be, making the contract, with the approval of the mayor. (12-12-67; Ord. of 1027-87; Ord. of 6-12-90)

Sec. 18-3. Advertisement to bid; plans and specifications.

Except as provided in General Laws, Chapter 149, Sections 44A through 44L, all contract for construction work or for the purpose of purchasing of equipment, supplies or materials, whether for repairs or original construction, the estimated cost of which amounts to ten thousand dollars or more, shall be awarded in conformance with the provisions set forth in General Laws, Chapter 30B.

It shall be the duty and responsibility of the official or officials in charge of a department, board or commission to prepare, or cause to be prepared, the plans or specifications. Said plans or specifications must contain all information with sufficient certainty and clarity as may be practicable relative to the public work or supplies so that same shall permit of competition. (12-12-67; Ord. of 10-27-87; Ord. of 6-12-90)

Sec. 18-4. Bid deposits generally.

When deemed necessary by any department, board or commission regulated by this article, bid deposits shall be prescribed in the public advertisement inviting bides in an amount not to exceed 10% of the bid submitted. Such bid deposit shall be for the purpose of insuring the city that the bidder will enter into a contract as prescribed by the terms therein. All bidders other than the one to whom the contract is awarded shall be entitled immediately to a return of their bid deposit. A successful bidder shall forfeit his bid upon failure on his part to enter into a contract within 14 days after the contract is awarded. Upon execution of the contract to the successful bidder, his bid deposit shall be forwarded to him immediately. If performance bond is required, the contract will not be deemed executed until the performance bond is delivered to department, board or commission and properly approved.

Sec. 18-5. Bid opening procedure.

(a) *Sealed*. Bids shall be submitted sealed to the department, board or commission regulated by

this article and shall be identified as bids on the envelope.

(b) *Opening.* Bids shall be opened in public at the time and place stated in the public advertisement.

(c) *Tabulation.* A tabulation of all bids received shall be made available for public inspection.

Sec. 18-6. Rejection of bids.

The department, board or commission regulated by this article shall have the authority to reject all bids, parts of bids or all bids for any one or more supplies or contractual service included in the contract, when the public interest will be served thereby.

Sec. 18-7. Bids where contractor in default to city.

The department, board or commission coming under the regulations of this article may accept the bid of a contractor who is in default on the payment of taxes, licenses or other moneys due the city, on condition that money due the contractor resulting from an awarded contract may be applied to his indebtedness to the city.

Sec. 18-8. Award of contract generally.

(a) *Authority of department board or commission*. The department, board or commission shall have authority to award contracts within the purview of this article.

(b) *Lowest responsible bidder.* Except as otherwise provided the contract shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the department, board or commission shall consider:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(2) Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference;

(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws or ordinances relating to the contract or service;

(6) The sufficiency of the financial resources and ability of the bidder to perform the

contract or provide the service;

(7) The quality, availability and adaptability of the supplies, or contractual services to the particular use required;

(8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(9) The number and scope of conditions attached to the bid.

Sec. 18-9. Award of contract to other than low bidder.

When the award of a contract under this article is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the department, board or commission and filed with the other papers relating to the transaction.

Sec. 18-10. Tie bids.

(a) *Local bidder.* If all bids received under this article are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder.

(b) *Outside bidders.* Where paragraph (a) is not in effect, the department, board or commission under this article shall award the contract to one of the tie bidders or to all of the tie bidders as it deems in the best interest of the city; provided, and on condition that the contractor entering into a contract which is awarded to more than one bidder shall be deemed to agree to supply the city with all or part of the contract subject matter.

Sec. 18-11. Emergency purchases.

Notwithstanding the provisions of this article in case of an apparent emergency which requires immediate purchase of supplies or contractual services, the mayor is hereby authorized and empowered to approve purchases of the department, board or commission as is set forth in section 18-1 at the lowest obtainable price.

A full report of the circumstances of such emergency purchase shall be filed by the department, board or commission. with the city clerk and shall be entered in the minutes of the council and shall be open to public inspection. (Ord. of 6-12-90)

CHAPTER 19. SMOKE ABATEMENT AND AIR POLLUTION.

Sec. 19-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Chart. Ringelmann's smoke chart as published and used by the United States Bureau of Mines.

Cinders. All solids, including coke (partly burned fuel), soot and fly ash, formed as a result of the combustion of fuel, which is carried in the gas stream so as to reach the external air.

Smoke. The exhalation, visible vapor, or substance that escapes or is expelled in combustion from a burning substance.

Stack. Any chimney or smokestack or other structure whether of brick, tile, concrete, metal or other material or a combination of any of these materials intended for the emission of the products of combustion from the burning of any fuel or material. Smokejacks attached to locomotive roundhouses shall be deemed stacks and a part of whatever locomotive is beneath them for the time being.

Sec. 19-2. Classification of stacks.

Chimneys or smokestacks, hereinafter known as stacks, defined in section 19-1 shall be classified as follows:

Class 1 includes all fixed or stationary stacks having an inside area at the top not exceeding the area of a circle five feet in diameter.

Class 2 includes all fixed or stationary stacks having an inside area at the top greater than the area of a circle five feet in diameter but not exceeding the area of a circle 10 feet in diameter.

Class 3 includes all fixed or stationary stacks having an inside area at the top greater than the area of a circle 10 feet in diameter.

Class 4 includes all stacks on steam locomotives.

Sec. 19-3. Prohibited emission of smoke.

(a) The emission of smoke of a degree of darkness or density equal to No. 2 of the chart or greater for more than six minutes in any one hour from stacks of class 1 and class 2; or of a

degree equal to No. 3 of the chart or greater for more than three minutes in any one hour from stacks of class 2; or of a degree equal to No. 2 of the chart or greater for more than twenty-five minutes in any one hour from stacks of class 3; or of a degree equal to No. 3 of the chart or greater for more than five minutes in any one hour from stacks of class 3; or of a degree equal to No. 3 of the chart or greater for more than twenty seconds in any one period of five minutes from stacks of class 4, is hereby prohibited.

Sec. 19-4. Emission of cinders, etc.

The emission of cinders or other residue, from stacks of any class, in such quantities as to cause annoyance to the public or injury to business or property is hereby prohibited. Whenever special considerations make necessary the operation of equipment which inherently cannot avoid the generation of cinders or other residue, the smoke flues serving such equipment shall be provided with cinder catchers or fly ash and soot collectors of such design and installation as may be approved by the chief of the fire department.

Sec. 19-5. Enforcing officer.

The chief of the fire department shall enforce the provisions of this chapter.

CHAPTER 20. SOUND TRUCKS. EN(88)

Sec. 20-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Sound amplifying equipment. The words "sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed to include standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning device on other vehicles, used only for traffic safety purposes.

Sound truck. The words "sound truck" shall mean any motor or horse drawn vehicle having mounted thereon, or attached thereto, any sound amplifying equipment.

Sec. 20-2. Commercial advertising.

No person shall operate, use, or cause to be operated or used any sound truck for commercial sound advertising purposes on city streets, with sound amplifying equipment in operation.

Sec. 20-3. Sound trucks used for noncommercial purposes.

A person may operate, use or cause to be operated or used a sound truck with sound amplifying equipment in operation for non-commercial purposes on city streets, but such operation or use shall be subject to the following regulations:

(a) The only sounds permitted are music and human speech.

(b) Operations are permitted for four hours each day, except on Sundays and legal holidays, when no operations shall be authorized. The permitted four hours of operation shall be between the hours of 11:30 a.m, and 1:30 p.m., and between the hours of 4:30 p.m. and 6:30 p.m.

(c) Sound-amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least 10 miles per hour, except when the truck is stopped or impeded by traffic, Where stopped by traffic, the sound-amplifying equipment shall not be operated for longer than one minute at each such stop.

(d) Sound shall not be issued within 100 yards of hospitals, schools, churches or courthouses.

(e) A sound truck with its amplifying device in operation shall be operated only on the following streets:

Center Street.
Eagle Street, from River Street to Main Street.
Holden Street.
Main Street, from Eagle Street to Marshall Street.
Marshall Street.
River Street, from Eagle Street to Marshall Street.
State Street, from Main Street to Summer Street.

(f) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.

(g) The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound truck and so that such volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.

(h) No sound-amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.

CHAPTER 21. STREETS AND SIDEWALKS[EN(89)]

Article I. In General

Sec. 21-1. Naming of streets; erection of signs.

The several streets and ways in the City shall continue to be called and known by the names heretofore established, and all streets and ways hereafter laid out and accepted shall be named by the City Council. The City Council may change the name of any street or way. No name shall be given to any avenue, street, way or place which has already been given to any other public avenue, street, way or place. The commissioner of public works shall erect and maintain in conspicuous places on each street and way in the city, one (1) or more signs, on posts or otherwise, which shall bear the name given to the street or way by the city council.

State law reference--Naming of streets, G.L., C. 85, § 3 et seq.

Sec. 21-2. Numbering of buildings--Assignment of numbers.

The city engineer shall assign a number to all dwellings and buildings on every street that has been accepted as such or as maintained by the city, or that has a city water supply or a public sewer therein. He shall thereafter, upon the acceptance of any street, or the placing therein of a city water pipe or a public sewer, proceed at once to assign numbers for each dwelling or building built or to be built therein, and may upon the petition of twenty-five (25) percent of the property owners along any street or way open for the convenience and travel of the public, although not accepted as such by the city, nor having a city water pipe or a public sewer, proceed so to assign numbers.

Sec. 21-3. Same--System.

Each number referred to in section 21-2 shall cover a frontage of twenty (20) feet with the odd numbers on the northerly and westerly sides and the even numbers on the southerly and easterly sides of the streets, except upon streets whose center line makes, with the meridian, an angle equal to about forty-five (45) degrees, in which case the side for odd or even numbers shall be at

the discretion of the city engineer.

Sec. 21-4. Same--Owners or occupants to affix; size; position.

The owner or occupant of every dwelling or building to which the city engineer shall assign a number shall, within five (5) days after notice from the city engineer, cause to be placed and maintained on or over the outside doors fronting on the street or way, or on the front corners of every dwelling or building having its entrance on the side thereof, such number as shall be assigned by the city engineer. The numbers or figures shall be not less than two (2) inches in height, shall be securely fastened and if possible shall be so placed as to be easily observable from the street in front of the premises.

Sec. 21-5. Digging up or obstructing streets, etc.--Generally.

No person, except the commissioner of public services or one acting for him or under his direction, shall break or dig up the pavement or ground in any street, or erect any staging for building thereon, or place thereon any rubbish or materials, except as provided in this section, without first obtaining from the commissioner of public services a written permit describing the space in the street that may be so disturbed or occupied, and the length of time such disturbance or occupancy may continue and such other provisions and restrictions as the commissioner of public services may promulgate from time to time, nor without filing with the city clerk a written agreement approved by the commissioner, to comply strictly with the terms of the permit and to indemnify the city against all loss, cost or expense that it may suffer by reason thereof during such disturbance or occupancy and for a period of two (2) years after its termination, accompanied by a bond with sureties satisfactory to and approved by the commissioner of public services, in a sum agreeable to the commissioner, conditioned upon the faithful performance of such agreement.

No person shall suffer his firewood, coal or other fuel, sand, gravel, lumber, or materials to remain in any street after sunset. In case any such material must of necessity so remain after sunset, the owner shall place and keep a sufficient light over or near the same from sunset to sunrise. (R.O. 1954, Ch. 38, §§ 1, 21; 5-6-1963; Ord. of 2-9-1982)

Sec. 21-6. Same--Placing of lights or guards.

Whenever any street shall, by reason of any work done under any permit granted as provided in section 21-5, be dug up, obstructed, encumbered or otherwise thereby rendered unsafe or inconvenient for travel, the person receiving such permit shall put, and at all times keep up, a suitable railing or fence around the section of the street so excavated, encumbered or obstructed so long as the same shall remain unsafe or inconvenient, and shall also keep an adequate number

of lighted lanterns or flares fixed to such fence or fixed in some other proper manner, during every night from sunset to sunrise so long as such railing or fence is kept standing or the obstruction, excavation or encumbrance remains. He shall also, within such reasonable time as commissioner of public works shall direct, clear or repair such street, in a manner satisfactory to the commissioner of public works.

Sec. 21-7. Reserved.[EN(90)]

Sec. 21-8. Altering sidewalks and gutters.

No person shall alter, or cause to be altered, the height or width of any sidewalk in the city nor shall wholly or partly fill up any gutter in any street, or cause the same to be done, without written permission from the commissioner of public works.

Sec. 21-9. Moving buildings through streets.

No person shall move or cause to be moved any building through any street without having obtained from the commissioner of public works a written permit therefor, stating the streets through which, and the time within which, the building may be moved and such other provisions as may appear advisable to him, without having first given adequate notice to any public utility company whose physical plant may be effected by such moving, and without having filed with the city clerk a written agreement, approved by the commissioner of public works, to comply strictly with the terms of such permit and to indemnify the city against all loss, cost or expense it may suffer by reason of the moving of such building.

Cross reference--Building code, Ch. 3.
State law reference--Commonwealth law on moving buildings through streets, G. L., C. 85, § 18.

Sec. 21-10. Steps or doors to basements abutting on streets.

No person shall maintain an entrance to his premises by steps descending immediately from or near the line of a street unless such entrance is properly guarded; nor shall any person permit a cellar door, or doorway from any street into any cellar or basement to remain open when not in immediate use, nor while in such use after sunset unless a good and sufficient light be kept constantly at the entrance of such door or doorway.

Sec. 21-11. Gates or doors not to swing over streets or sidewalks.

No person shall allow any gate or door belonging to premises owned or occupied by him or

under his control to swing on, over or into any street or sidewalk in the city.

Sec. 21-12. Snow and ice removal from sidewalks.

Whenever any snow shall fall or ice shall fall or accumulate or be collected or deposited upon any sidewalk, any tenant or occupant or the owner or person having charge of the land abutting upon such sidewalk, shall cause the same to be removed therefrom within twelve hours.

Whenever any sidewalk shall be encumbered with snow or ice contrary to the provisions of this section, the chief of police shall notify any tenant or the owner or person having the care of the land abutting thereon, to cause such sidewalk to be made safe and convenient for travel by removing the snow, and as far as practicable the ice therefrom, within six hours from the time of receiving such notice.

§ 21-13. Snow and ice removal from roofs abutting on sidewalks.

Whenever snow or ice collects upon the roof of any building near the line of any sidewalk, the owner or person in charge of such building shall immediately erect barriers, or take other suitable measures to prevent the fall of snow and ice therefrom upon persons traveling on such sidewalk.

Secs. 21-14--21-19-20 Reserved.[EN(91)]

Sec. 21-21. Heating roofing material in streets or sidewalks.

No person shall set up or use in any street or sidewalk any kettle or other receptacle for the purpose of heating tar or other similar substance for roofing or otherwise without first having obtained a written permit from the Commissioner of Public Works.

Sec. 21-22. Coasting in streets or sidewalks.[EN(92)]

No person shall slide or coast down, across, in or along any of the sidewalks or streets of the City except in such places and under such restrictions as the Commissioner of Public Works shall designate and direct.

Sec. 21-23. Playing games in streets or sidewalks.

No person shall, within the limits of any street, play any game of ball, fly a kite or balloon, throw stones or other missiles, or engage in any other game, amusement or exercise interfering

with free, safe and convenient use of such street or sidewalk by any person traveling or passing along the same.

Sec. 21-24. Discharging weapons in streets and sidewalks.[EN(93)]

No person shall project by means of any device any missile or substance whatsoever in or upon any public street or sidewalk which might endanger the life or safety of any person.

Sec. 21-25. Bicycle riding, roller skating, in-line skating and skateboarding on sidewalks.

No person shall drive, wheel, draw, propel, or push any cart, wheelbarrow, bicycle, skateboard, roller skates, roller blades, or other vehicle of burden or pleasure upon or along any sidewalk except for the purpose of crossing such sidewalk to go to or out of some adjoining enclosure, provided that this section shall not apply to wheelchairs or children's carriages propelled by hand. This section does not apply to police officers on bicycles when engaged in the lawful performance of their duties. (Ord. of 8-26-1997; Ord. of 6-8-1999)

Sec. 21-25.1. Roller skating, in-line skating and skateboarding in the Business District.

Roller skating, in-line skating and skateboarding upon any street or sidewalk in the Business District is hereby prohibited.

The Business District, for the purpose of this section, is defined as the area defined by and encompassing the following streets or portions of streets; Main Street easterly from West Main Street to the intersection of American Legion Drive; American Legion Drive southerly to the intersection of Ashland Street; Ashland Street northerly to the intersection of Main Street; Eagle Street northerly to the intersection of Center Street; Center Street westerly to the intersection of Marshall Street; Marshall Street southerly to the intersection with Main Street. (Ord. of 6-8-1999)

Sec. 21-25.2. Shopping carts.

Owners of shopping carts shall not allow said shopping carts to be stored, kept, left, or abandoned upon or along any street, sidewalk, or way. The owner of any such shopping cart that is so stored, kept, left or abandoned, which is picked up by the City employees and not retrieved by the owner within 48 hours, shall pay a fee of $2 to reclaim such shopping cart. It shall be the responsibility of shopping cart owners to contact the Commissioner of Public Services or his designee to claim such carts. Any such shopping cart that is not claimed by an owner within 10 days of being picked up by City employees may be disposed of. (Ord. of 2-27-2001)

Sec. 21-26. Parades, etc., through streets or sidewalks.

Except as otherwise provided by statute, no person shall form, conduct or take part in any parade in any street or sidewalk, or form or conduct for the purpose of display or demonstration in any street or sidewalk any procession or assembly of people without first having obtained a permit therefore from the Chief of Police. This section shall not effect the right of peaceful assembly in any place other than a traveled way.

Sec. 21-27. Speechmaking in streets or sidewalks.

No person shall give any public address, speech or harangue in any street or sidewalk without permission therefor from the Chief of Police. This section shall not effect the right of peaceful assembly in any place other than a traveled way.

Sec. 21-28. Selling articles in streets and sidewalks.

No person, except licensed newsboys selling newspapers shall use or occupy any street or sidewalk for the purpose of selling or offering for sale any articles without first obtaining a permit from the Chief of police.

ARTICLE II, . Awnings, Signs, Marquees and Other Similar Projections.[EN(94)]

Sec. 21-29. Permit required.

No person, except as otherwise provided by law, shall place or maintain or cause or allow to be placed or maintained a sign, advertising device, clock, marquee, permanent awning and other like structures projecting into or over a public way, without first obtaining a permit therefor from the City Council to be exercised under the supervision of the Commissioner of Public Works.

Sec. 21-30. Application for permit; bond.

Each application for a permit required by this article shall be made on a form furnished by the Commissioner of Public Services and shall be signed by either the occupant or owner or other person in control of the premises, in connection with which the same are to be attached or placed and shall be accompanied by a bond of a surety company or liability insurance policy satisfactory to the city solicitor in the sum of one hundred thousand dollars for each injury and three hundred

thousand dollars in the aggregate renewed annually, to indemnify the city against any and all claims for personal injury, including death, or property damage in any way resulting from the placing, maintaining, construction or removal of such sign, advertising device, clock, marquee, permanent awning or other like structure. (1-11-66; Ord. of 2-9-1982).

State law reference--Commonwealth law limiting liability for defects in ways, G. L., C. 84, § 15.

Sec. 21-31. Revocation of permit.

The city council shall have the power to revoke or cancel any permit issued under this article for failure to comply with any of the terms, requirements or provisions of this section or regulations or orders issued hereunder for reasons of public safety, health or welfare.

Sec. 21-32. Height above and extension beyond sidewalk.

No person shall allow to remain or place over any sidewalk, in front of any building any sign, advertising device, clock, marquee or other like structure less than ten (10) feet in height above the sidewalk at the lowest part thereof or a permanent awning less than seven (7) feet in height above the sidewalk at the lowest part thereof, nor shall any such structure extend beyond the sidewalk unless same is a decorative street device for Christmas season. (1-11-66)

Sec. 21-33. Additional regulations.

All structures regulated by this article shall in all respects conform to any regulation or order of the commissioner of public works in relation to the location, height, extent, construction and maintenance thereof.

Sec. 21-34. Effect on existing structures.

The article shall not be construed so as to compel the alteration or removal of any sign, advertising device, clock, marquee, permanent awning or other like structure which was legally erected or placed prior to December 28, 1954.

ARTICLE III. PIPES, POLES, WIRES AND CONDUITS IN, OVER OR UNDER PUBLIC WAYS EN(95)

Sec. 21-35. Power and authority of commissioner of public works generally.

The commissioner of public works shall have supervision of all pipes and wires under the streets and public places and of all conduits and other structures holding, supporting or containing such wires.

Sec. 21-36. Permit to construct and maintain--Application for issuance.

Permits to construct and maintain under, upon or over public way or places, pipes, ducts, conduits, distributing poles, wires, structures or other appliance or apparatus for the purpose of transmitting intelligence by electricity or otherwise or for the purpose of transmitting electricity or gas for light, heat or power may be issued by the city council upon application filed with the city clerk.

Sec. 21-37. Same--Plans to accompany application.

Every petition presented to the city council for a permit under the provisions of section 21-36 shall be accompanied by a plan showing the exact proposed location of each such facility and its relationship to the existing location of other utilities in the immediate area which may be affected by such proposed facility. A copy of such plan shall also be submitted to the commissioner of public services at the time of application. (Ord. of 2-9-1982)

Sec. 21-37.1. Fees.

The fee for an Order for Joint or Identical Pole Location Inspection shall be $50 and re-inspection shall be $25. (Ord. of 4-14-2009)

Sec. 21-38. Same--Acceptance of conditions by permittee; when permit voided.

Whenever any permit required by this chapter is granted the person or corporation to which such permit is granted shall, within sixty (60) days from the date of such permit, file in the office of the city clerk a written acceptance, without reservation, of the location of such pipes, wires, distributing poles, ducts, conduits, manholes or other fixtures and of all the lawful conditions, terms and provisions contained in the permit and the ordinances of the city and an agreement to carry out, observe, perform and be subject to the same; and in default of such written acceptance and agreement, the permit and grant of location shall be void. Such permit and grant shall likewise be void and deemed revoked unless within six (6) months after filing of such acceptance and agreement all pipes, ducts, conduits, manholes and other fixtures covered thereby shall have been constructed, completed, and put in operation.

Sec. 21-39. Bond.

No permit under this article shall be valid until the person or corporation to which such permit is granted, shall have executed and filed annually with the city clerk a bond, satisfactory in form to the city solicitor, in a penal sum of one hundred thousand dollars ($100,000.00) for each injury and three hundred thousand dollars ($300,000.00) in the aggregate, to indemnify and save harmless the city against all loss, cost, damage and expense whatsoever to which the city may be subjected in consequence of the acts or neglect of such person or corporation, or his or its officers, agents or employees, and in any manner arising from or growing out of the use and transmission of electricity or gas and the transmission of intelligence by electricity in the exercise of privileges permitted by the city, and the construction, maintenance, operation., and use of pipes, lines, wires, distributing poles, cables, conduits, constructions, fixtures and apparatus pursuant thereto. The bond shall also be conditioned upon the fulfillment of all agreements with the city, and the compliance with all lawful orders, conditions and obligations imposed by the city council and the commissioner of public services, and the performance of all duties required by law, and by any ordinance of the city. (Ord. of 2-9-1982)

Sec. 21-40. Plan showing location of underground facilities.

Whenever the commissioner of public works shall so request, every person or corporation owning pipes, ducts, conduits, manholes or electric or other wires under any public way or place, shall within a reasonable time thereafter, furnish a plan showing the particular location and usage of all or any part of such facilities, with such specifications as may be required by the commissioner.

Sec. 21-41. Order to change location.

After having first given the person or corporation to whom the permit for the erection thereof has been granted an opportunity to be heard, the city council may order that the location in the public way of any pipe, conduit, manhole, fixture, wire or distributing pole shall be changed, and may grant a substitute location therefor. Whenever the location of any pipe, conduit, manhole, fixture, wire, or distributing pole is so ordered to be changed, such change shall be made in conformity with the order by and at the expense of the owner within sixty (60) days after notice, and if not so changed the commissioner of public works may cause such change to be made and the expense thereof shall be repaid to the city by the owner.

Sec. 21-42. Compliance with rules and regulations of commissioner of public works; access to facilities; manner of performing work.

Every person or corporation operating or leasing any pipes, wires, ducts, conduits, manholes, electrical structures or appliances under the surface of any street or way shall comply with all reasonable rules and requirements of the commissioner of public works, and shall, at all reasonable times, give to the supervisor of wires access to such wires, ducts, conduits, manholes, structures, appliances and apparatus.

All work of installation, changing or repairs shall be done in a thorough manner and to the satisfaction of the commissioner of public works.

Sec. 21-43. City to have free use for police and fire alarm system.

In every underground conduit one duct not less than three (3) inches in diameter shall be reserved and maintained, free of charge, for the use of the fire alarm, police and other telegraph and telephone signal wires belonging to the city and used exclusively for municipal purposes.

Sec. 21-44. Permit required to excavate, etc., street, etc., surface; restoration work.

The surface of a street, way or bridge shall not be disturbed for the purpose of laying, repairing, changing or removing pipes, lines, wires, conduits or manholes, or of erecting, altering or removing distributing poles or other poles or fixtures used for carrying electric lines or wires without a permit in writing from the commissioner of public works, indicating the time, manner and place of opening such street and the time within which such work shall be completed. This provision shall not however be construed as requiring any permit for the opening of manholes for the purpose of drawing in, removing or repairing wires or cables. Whenever a manhole is open the person or corporation by whose authority the same is done shall place a suitable metallic guard rail around the opening, with a signal, at least one foot square, displayed therefrom. Whenever an opening is made in any public way or bridge for any of the purposes aforesaid, such part of the public way or bridge shall be promptly restored by the person or corporation owning or operating the pipes, lines, wires, ducts, conduits, or manholes, or making such repairs, to a condition satisfactory to the commissioner of public works, and the portion of the street, way or bridge so opened shall be kept and maintained in such condition by such person or corporation for one year thereafter; and if not immediately so restored, and thereafter kept and maintained, the commissioner of public works may after forty-eight hours notice cause the same to be done at the expense of such person or corporation.

Sec. 21-45. Facilities of others not to be interfered with.

In laying, repairing or removing pipes, wires, or conduits, no person or corporation, shall disturb or in any way interfere with pipes, wires, conduits, manholes or appliances owned by any other person or corporation.

Sec. 21-46. Repair or replacement of unsafe facilities; removal of abandoned facilities generally.

Whenever pipes, wires, conduits or other structures are regulated by this article in the judgment of the commissioner of public works, unsuitable or unsafe, the person or corporation owning or operating the same shall immediately upon his demand repair or replace the same to his satisfaction. If not immediately repaired or replaced the commissioner of public works may cause such repairs or substitutions to be made, and the expense thereof shall be repaid to the city by the owner. He may cause abandoned pipes, wires, conduits or other structures to be removed.

Sec. 21-47. Removal of certain wires, poles, etc., after completion of conduit.

Upon the completion of a conduit in any public way or place which is designed to support existing overhead structures, the person or corporation owning, leasing or operating the same shall forthwith remove from above the surface of such public way or place all wires, cables and conductors and all poles or structures used in such way or place to support wires, cables and conductors, except when in the judgment of the commissioner of public works it is impracticable to remove such wires, cables, poles, conductors or structures. This section shall not apply to posts for the support of lamps exclusively or to poles used exclusively for local distribution from underground wires, cables or conductors.

ARTICLE IV. Laying Out, Altering, Relocating and Discontinuing Streets. EN(96)

Sec. 21-48. Petition required; contents of petition and profile.

Petitions for laying out an existing street as a public street or way, or for altering, relocating, or discontinuing any existing street, way or highway, within the city limits, shall be presented to the city council and such petitions shall be referred to the planning board as provided by General Laws, chapter 41, section 811. In all cases, except where a street is to be discontinued the petition must be accompanied by a profile of the same and by a description defining clearly and accurately the lines bounding such proposed street and also a map showing such boundary lines and the position of the monuments which mark the same, and stating plainly both in words and in figures the width of the proposed street and the true bearings of the boundary lines. The petition shall also include a list of abutting property owners so far as known.

Sec. 21-49. Releases by abutters.

No street shall be laid out as a public street or way by petition unless all abutters shall have released to the city without compensation the necessary land and abutting shoulder slopes. This section, however, shall not apply to proceedings instituted and had under the provisions of law relating to the assessments of betterments.

State law reference--See G. L., C. 80, C. 80A.

Sec. 21-50. Grade and drainage.

In conjunction with the planning board's report on the laying out, altering, or relocating of any street as a public street or way, the city engineer shall make a survey and recommend a grade and provision for drainage for the proposed street.

No grade for any street shall be adopted until a notice in writing has been sent by the city engineer to each owner, if known, of property abutting on proposed street, inviting him to examine a profile showing such grade.

The profile shall be on exhibition for a period of not less than five (5) days in the office of the city engineer. Such notice shall state the time during which such plan shall be on exhibition, and the time when the city council will hold a public hearing on the proposed grade. After hearing the grievances or objections of interested parties, the city council may adopt or reject the proposed grade. If adopted by the city council, the same shall become final; if rejected, the same shall be restudied by the city engineer.

Sec. 21-51. Width of streets.

No existing, streets, now in use, shall be laid out by the city council of a width less than fifty (50) feet, unless the commissioner of public works and the city engineer, through the mayor, have certified in writing that a lesser width is practicable, in which case, upon the recommendation of the mayor and a two-thirds vote of all the members of the council, an existing street may be laid out at a width of less than fifty (50) feet.

ARTICLE V. INSTALLATION OR ALTERATION OF SIDEWALK CURBINGS FOR PRIVATE ENTRANCES

Sec. 21-52. Supervision.

All installations or alterations of sidewalk curbing for private driveways or entrances shall be under the supervision of the commissioner of public works in accordance with the following

regulations.

Sec. 21-53. Installation of new curbing; cutting of existing curbing generally.

All privately constructed sidewalk curbings shall be approved in writing by the commissioner of public works before commencement of the work. All cutting of existing sidewalk curbing shall be done by the department of public works at the cost of the property owner.

Sec. 21-54. Cost of work.

Upon the application of a property owner for the cutting by the city of an existing sidewalk curb, the commissioner of public works shall prepare an estimate of the cost of such work and submit same to the applicant. On payment in advance of the estimated cost by the applicant, the work shall be done by the department of public works. The commissioner of public works shall, subject to approval by the council, prepare and keep on file a schedule of costs for estimating the cost of such work.

Sec. 21-55. Width of curb cuts.

All curb cuts shall be limited to fifteen (15) feet for residential properties and thirty (30) feet for business and commercial establishments. (Ord. of 12-11-1979)

CHAPTER 22. SUBDIVISIONS. EN(97)

Sec. 22-1. Submission of proposed plan to planning board; approval of streets by board does not constitute acceptance.

Proposed subdivision shall be submitted to the planning board in accordance with the provision of General laws, chapter 41, section 810. The approval of subdivision and the layout of streets or ways therein shall be in accordance with rules and regulations adopted by the planning board. Approval of the subdivision plat by the planning board does not constitute the acceptance of the streets or ways as shown on such plat as public streets or ways. After the approval of a subdivision plat by the planning board, the city council may accept the streets or ways within such plat as public streets or ways in accordance with the provisions of this chapter.

Sec. 22-2. Conditions of acceptance of streets as public streets.

A street or way in an approved subdivision may be laid out or accepted as a public street under the provisions of the Betterment Act,[EN(98)] provided that the following conditions are complied with:

(a) A petition for the laying out or acceptance thereof, signed by the owner of not less than two-thirds of the linear frontage abutting on such street or way, shall be presented to the city council, requesting that such street or way be laid out or accepted as a public street or way, under the Betterment Act and stipulating in appropriate form that such action will be subject to the provisions of that act.

(b) Before voting that such streets be laid out or accepted, the city council shall have determined that, by reason of the doing of the work required to bring such street or way into conformity with the requirements set up in this section and, by reason of such acceptance, the land areas of the abutters thereon receives benefit or advantage, other than the general advantage to the city, in an amount equal to one-half of the cost of the improvements in the doing of such work.

(c) Before voting that such street be laid out or accepted, the city council shall have further determined that the doing of the work required as aforesaid will not involve the taking of land.

(d) In the event it is determined to lay out or accept a street or way in accordance with this section, such work and construction shall be done on the street or way as is required to bring it into substantial conformity with the specification established by the department of public works, and one-half the total cost of such construction shall be borne by the city, and the remaining one-half of such cost shall be apportioned between the abutting property owners in accordance with the linear frontage owned by each; provided, however, that if the provisions of this section as to apportionment of cost are not in accordance with the provisions of chapter 80 of the General Laws, the provisions of such chapter shall prevail.

(e) The order laying out or accepting the street shall contain a statement in accordance with section 1 chapter eighty of the General Laws, that betterments are to be assessed by reason of such laying out or acceptance, and shall contain a description of the area to be affected, and an estimate of the betterments to be assessed, and shall refer to a plan of such area, all in accordance with section 2 of chapter 80. All proceedings thereafter shall be in accordance with, and subject to, the provisions of chapter 80.

Sec. 22-3. Streets constructed on private land.

No street or way constructed on private lands by any person or corporation other than the city shall be laid out or accepted as a public street or way by the city council, unless approved by the

planning board as a part of a new subdivision plat in accordance with the rules and regulations promulgated by the planning board, and unless constructed and completed in accordance with specifications promulgated by the department of public works.

CHAPTER 23. TAXICABS AND BUSES.[EN(99)]

Article I. Taxicabs.[EN (100)]

Division 1. In General

Sec. 23-1. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Driver. A person who drives a taxicab.

Operator. A person who owns and maintains a taxicab business.

Taxicab. Every motor vehicle used or to be used for the conveyance of persons for hire shall be deemed to be a taxicab within the meaning of this section, except a motor vehicle operated for the purposes stated in Chapter 159A of the General Laws.

Sec. 23-2. Rules and regulations.

All operators and drivers of taxicabs licensed under the provisions of this article shall be subject, in addition to the provisions of this article, to such further rules, orders and regulations, including passenger fares as may from time to time be promulgated by the City Council.

Sec. 23-2.1. Taxicab identification.

In addition to the taxi license plate issued by the Massachusetts Registry of Motor Vehicles, every taxicab operated within the City of North Adams shall have a sign affixed to its roof or a sign on the driver's door and a sign on the front passenger door identifying the motor vehicle as a taxicab. The lettering shall be a minimum of two inches in height. In addition, every taxicab operated within the City of North Adams shall have numbers centered and attached to the driver's

side front, the passenger side front, and in a conspicuous position on the rear of the vehicle. Each number shall be a minimum of four inches in height and shall be white in color on a dark-colored vehicle and black in color on a light-colored vehicle. The numbers for each taxicab shall be assigned by the City Clerk. (Ord. of 6-8-1999; Ord. of 4-12-2005; Ord. of 4-10-2007)

Sec. 23-3. Enforcement of article.

The Commissioner of Public Safety shall have charge of the enforcement of the provisions of this article. (Ord. of 6-27-1995)

Sec. 23-4. Inspection of taxicabs.

Before a license is granted to operate a vehicle as a taxicab, such vehicle shall be thoroughly inspected and examined by the Commissioner of Public Safety or by some one designated by him, for the purpose of ascertaining whether the same is in a safe condition for the transportation of passengers, clean and of good appearance. All taxicabs, licensed under this article, shall be inspected semi-annually to meet the above requirements. (Ord. of 6-27-1995)

Sec. 23-5. Competition with busses.

No person operating a taxicab shall establish and maintain therefor any route between fixed termini in competition with motor bus.

Sec. 23-6. Disposition of lost articles.

Every person operating a taxicab regulated by the provisions of this article shall deliver any property or articles left in such taxicab by any passenger to the Commissioner of Public Safety. Such article or property shall be delivered to the Commissioner of Public Safety not more than 24 hours after finding the same, and the licensee shall receive a receipt therefor from the Commissioner of Public Safety who shall provide for the return of such article or property to the owner upon proper identification and proof of ownership. All such property or articles turned in to the Commissioner of Public Safety and not claimed within 60 days of such delivery shall be returned to the licensee. (Ord. of 6-27-1995)

Division 2. Operator's License[EN(101)]

Sec. 23-7. Required; approval of application.

No person shall be a taxicab operator as defined in this article unless such person is a resident of the Commonwealth of Massachusetts and licensed therefor by the City Council. Application for such licenses shall be approved by the Commissioner of Public Safety or his designee. (Ord. of 9-25-1979; Ord. of 12-10-1985)

Sec. 23-8. Contents; duration.

Every taxicab operator's license shall be numbered serially in order as granted; shall set forth the name, residence and place of business of the licensee, the hours during which the vehicle is to operate, a description of the motor vehicle, the current registration number and engine number of the vehicle and the number of persons, exclusive of the driver, which it may carry; and unless sooner revoked or rendered void shall continue in effect until the 31st day of December after the date of issuance therefor. Failure to renew shall incur a penalty of $10 per day of noncompliance. (Ord. of 4-10-2007)

Sec. 23-9. Maximum number in effect.

The number of taxicab operator's licenses in force and effect at any one time shall not be in excess of 25; notwithstanding the provisions of this division, all licenses which are in effect on December 28, 1954, shall continue in force unless sooner revoked in accordance with law.

Sec. 23-10. Transferability, etc.

Licenses granted under this division shall be assignable, saleable or transferable, subject to the approval of the Commissioner of Public Safety or the officer in charge of the Police Department and the City Council, and shall be subject to such other terms, conditions and limitations as the City Council shall from time to time prescribe. (Ord. of 6-27-1995)

Sec. 23-11. Insurance.

No taxicab operator's license shall be issued until the applicant has delivered to the City Clerk a policy of insurance issued by an insurance company authorized to transact business within this commonwealth covering the motor vehicle to be operated under the license, nor until the applicant has also delivered to the City Clerk a certificate of the insurance company issuing the policy providing that the policy shall not be canceled without giving the City Clerk 15 days' notice thereof. Such policy shall be a policy of liability insurance which provides indemnity for or protection to the insured and any person responsible for the operation of the insured's taxicab with his express or implied consent, against loss by reason of the liability to pay damages to others for injury to property or bodily injuries, including death, at any time resulting therefrom,

sustained during the term of the policy by any person, including passengers, other than employees of the insured or of such other persons responsible as aforesaid who are entitled to payments or benefits under the provisions of Chapter 152 of the General Laws, and arising out of the ownership, operation, maintenance, control or use anywhere in the commonwealth of such taxicab, to the amount or limit of at least $10,000 on account of injury to or death of any one person, or of at least $20,000 on account of any accident resulting in injury to or the death of more than one person, and to the amount or limit of at least $5,000 on account of any one accident resulting in injury to property.

The City Clerk shall, upon the request of any person, furnish the name of the company issuing such policy covering any particular car licensed and shall exhibit such policy to any such person or his duly authorized representative.

Every such license shall terminate upon the cancellation or the expiration of the policy of insurance covering the licensed car.

Sec. 23-12. License card.

The City Clerk shall, at the expense of the licensee, issue for the licensed vehicle a card bearing the words "The Commonwealth of Massachusetts, City of North Adams, Taxi Vehicle License," setting forth the serial number of the license and the expiration date. The card shall also state the number of passengers the vehicle is permitted to carry. Such card shall be so attached to the interior of the vehicle as to be plainly visible to the occupants thereof. (Ord. of 6-27-1995)

Division 3. Driver's License[EN(102)]

Sec. 23-13. Required; approval of application; temporary license.

No person shall drive a taxicab, and no owner or person having the care or management of a taxicab shall employ or suffer any person to drive the same, other than a person licensed by the City Council. Such applications shall be approved by the Commissioner of Public Safety or his designee; provided, however, that the City Clerk may issue a temporary license to drive a taxicab to any person whose application has been approved by the Commissioner of Public Safety or his designee, if such approval is more than five days prior to any scheduled action on the person's application by the City Council; provided, further, however, that said temporary license shall only be in effect for a period of 30 days from its issuance, or until the person's application is acted on by the City Council, whichever may first occur. On January 1 and July 1 of each year, taxi operators shall provide the City Clerk with a list of current drivers. Failure to provide the list will incur a penalty of $5 per day of noncompliance. (Ord. of 6-8-1999; Ord. of 4-10-2007)

Sec. 23-14. Qualifications.

No taxicab driver's license shall be granted to any person unless he or she holds a valid license to operate a motor vehicle in Massachusetts, nor to any person under 18 years of age, nor to any person who has not held a valid license to operate a motor vehicle in the United States for a minimum of 12 months. All taxicab driver's license applications are subject to review of the North Adams Public Safety Department, which shall determine whether such applicant is a suitable such license. In no event shall a license be issued to anyone who has had a conviction for operating under the influence, or a like offense in another state, within the past 60 months, or who has had two such convictions in a lifetime, nor to anyone who has had his or her license to operate a motor vehicle revoked by Massachusetts or another state for a moving vehicle violation within 60 months, nor to anyone who has an outstanding arrest warrant, nor to anyone who has a violent felony conviction that may deem unsuitable, nor to anyone who has an active "no contact" restraining order against them, nor to any person known to be taking medications that would hinder his or her driving ability. A license may be revoked or suspended if the North Adams Public Safety Department determines that a licensee is no longer a suitable person or is otherwise disqualified by this section.

Such applicant or taxi company representative shall appear before the City Council at which meeting the license is acted upon. If the applicant or taxi company representative fails to appear, the application shall be postponed until the next regular meeting of the City Council. Failure to appear at the second meeting shall require a new application and fee to be submitted before a license is issued.

If such license, once granted, is not obtained from the City Clerk's office within five days, it shall be automatically revoked and the City Clerk shall so inform the taxi operator noted on the application. (1-27-1970; Ord. of 11-12-1980; Ord of 3-25-1997; Ord. of 9-27-2005; Ord. of 4-10-2007; Ord. of 2-10-2009)

Sec. 23-15. Numbering and recordation; termination.

All taxicab drivers' licenses shall be numbered in order as granted, shall be recorded in the office of the City Clerk and, unless sooner suspended or revoked, shall continue in force until the 31st day of December next after the date of issuance thereof.

Sec. 23-16. Identification card.

The City Clerk, when issuing a license under this division, shall deliver to the licensee an identification card, setting forth the number and term of the license, the name of the licensee and a personal description of the licensee including his photograph, size 21/4 inches by 31/4 inches,

which shall be furnished by the licensee, age, height, weight, complexion, color of hair and color of eyes. The licensee shall at all times when driving or in charge of a taxicab display such card so as to be plainly visible to the occupants thereof and carry the license under which the taxicab is operated, and he shall show such whenever so requested by any police officer or passenger. (6-27-1972, § 3)

Article II. Buses.[EN(103)]

Sec. 23-17. License required; application.

No person shall operate any motor vehicle upon a public street or way in the City for the carriage of passengers for hire by indiscriminately receiving and discharging passengers along a regular predetermined route on which the vehicle is operated, or for the transporting of passengers for hire as a business between fixed and regular termini, without first having obtained a license for such operation. Applications for such licenses shall specify the route or routes over which the motor vehicles used thereunder are to be operated and shall be approved by the Commissioner of Public Safety or the officer in charge of the Police Department.[EN(104)]

Sec. 23-18. Contents and form of license.

Every license to operate a bus shall be numbered serially in order as granted, shall set forth the name, residence and place of business of the licensee and the number of vehicles to be operated under such license.

Every such license shall specify the route or routes over which the motor vehicles used thereunder may be operated and shall be on a form approved by the Department of Public Utilities.

Sec. 23-19. Soliciting passengers.

No person shall solicit, by outcry or other noise passengers for any motor vehicle licensed under this article.

Sec. 23-20. Disposition of lost articles.

Every person operating any bus licensed under this article shall deliver any article left therein by any passenger to the Commissioner of Public Safety not more than 24 hours after finding the

same, and shall receive a receipt therefor from the Commissioner of Public Safety who shall provide for returning the same to the owner upon proper identification and proof of ownership. All such articles delivered to the Commissioner of Public Safety and not claimed within 60 days from such delivery shall be returned to the licensee.

CHAPTER 24. WATER, SEWERS AND DRAINS.

ARTICLE I. IN GENERAL

Sec. 24-1. Water rates; abatements.

The Commissioner of Public Works shall establish the prices or rentals for use of water, subject to the approval of the City Council.

He may make abatements for water charges if in his judgment it is reasonable and proper to do so. Whenever a bill is abated or changed, a certificate of such abatement or change and the reason therefor, signed by the commissioner, shall be delivered to the City Treasurer and shall become his voucher for the amount therein stated, a duplicate thereof to be delivered simultaneously to the City Auditor.

Sec. 24-1.1. Sewer rates; abatements.

The Commissioner of Public Works shall establish the prices or rentals for sewer use, subject to the approval of the City Council.

He may make abatements for sewer charges if in his judgment it is reasonable and proper to do so. Whenever a bill is abated or changed, a certificate of such abatement or change and the reason therefor, signed by the Commissioner, shall be delivered to the City Treasurer and shall become his voucher for the amount therein stated, a duplicate thereof to be delivered simultaneously to the City Auditor. (Ord. of 7-13-2010)

Sec. 24-2. Water meters.

The City shall install some standard make of meter to all house services and to all other services supplying water for any and all purposes.

A charge of $100 will be assessed by the City for meters installed with a line less than one inch in diameter in newly constructed buildings or those buildings under renovation which require the installation of a new meter. All meters, with a less than one inch in diameter line, shall be maintained and repaired at the cost of the city, except any meter damaged through the negligence of a water taker, which shall be repaired or replaced at the expense of the water taker.

Those water takers who require lines one inch in diameter or greater will be required to purchase and pay the cost of meter installation and maintain such meter at their own expense. If the Commissioner of Public Services determines that a meter is not working properly, he shall order the water taker to repair the meter within 21 days. If the meter is not repaired within 21 days of the order of the Commissioner of Public Services, the meter may be repaired by the City and the water taker shall be assessed the actual cost for said repair, plus accrued interest at the rate of 10% per annum. Where the full amount due the City is not paid by such water taker within 30 days after such repairs, as provided for in this section, then the City may cause to be recorded in the Northern Berkshire Registry of Deeds, a sworn statement showing the cost and expense for repairs and the location of the property on which said repairs were done. The recording of such sworn statement shall constitute a lien on the property, and shall remain in full force and effect for the amount due in principal, interest, plus cost for collection, if any. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes. Such lien may be dissolved by filing with said registry of deeds such a certificate by the collection of taxes that the debt for which the lien attached, together with interest and costs thereon, has been paid or abated.

No meter shall be moved, disturbed or repaired except under the direction of the Commissioner of Public Services. Water Department employees shall have the right to enter the premises of any water taker to install, repair or read meters, or examine pipes and fixtures used and the manner of use. (Ord. of 7-26-1988; Ord. of 4-10-2001)

Sec. 24-3. Injuring or interference with public water supply.

No person shall injure or in any manner interfere with any public reservoir, or any water pipe connected with the City waterworks, or break or enter the premises appurtenant to or bordering upon any public reservoir or public water supply, or bathe or fish in any public reservoir or commit any nuisance in or near the same.

Sec. 24-4. Throwing or pouring offensive matter, wastes, etc., into streams, rivers, etc.[EN(105)]

No person shall place in or pour into any brook, stream, or other body of water any substance which might kill the fish therein or create offensive smells therefrom. Nor shall any person throw garbage, rubbish of any kind, wood, stones or any other substance into any river, brook, stream or other body of water.

Sec. 24-5. Regulations concerning persons in, on or over Hoosic River Flood Control Chute, etc.

No person shall be in, on or over the Hoosic River Flood Control Chute and stilling basins in the Hoosic River excluding, however, bridges that span such river chute. This section shall not apply:

(a) To persons who perform work or official duty therein either as an officer or employee of the local, county, state or federal government.

(b) To private corporations, their agents, servants, employees or independent contractors or individuals rightfully therein by agreement or operation of law.

(c) To persons or corporations granted permission by the mayor, or head of the public works, police or fire department.

(d) To persons involved in an emergency rescue of life.

ARTICLE II. Sewers, Drains and Water Pipes in Unaccepted Streets.

Sec. 24-6. Provisions of this article not to apply to strictly private premises.

The provisions of this article shall apply only to streets or ways whose use is for the common convenience and travel of occupants on either side thereof, and not to streets or ways which are not open to the public.

Sec. 24-7. Installation procedure generally.

No sewer or drain to connect with the sewage system of the city shall be placed and no water pipe shall be laid in any private street or way or in any street or way that has not been accepted as such by the city unless the location, grade and alignment of such sewer, drain, or water pipe has been approved by the commissioner of public works and the work of constructing such sewer and drain and the laying of such water pipe shall be under the supervision of the commissioner of public works. The commissioner of public works shall not approve the construction of sewers and drains or the laying of water pipes in any street or way of a subdivision as defined by section 81L of chapter 41 of the General Laws unless the plat of such subdivision has been approved by the planning board. The grade and alignment for water pipes shall be established in the same manner as for sewers, and in either case shall be so laid that the street may be graded to a surface recommended by the commissioner of public works and the city engineer. Such recommendation

and the survey necessary therefore shall precede the laying of any such pipes. The city engineer shall place on file in his office a profile of such street or way showing the recommended grade as above indicated.

Sec. 24-8. When installation may be ordered by commissioner of public works.

The commissioner of public works may, except in subdivisions the plat of which has not been approved by the planning board, direct the laying of pipes for water or sewage in any street or way that has not been accepted as such by the city whenever in his opinion the needs of the people owning property abutting on such street or way, and the interest of the city are best served by the laying of such pipes, subject to the provisions of the following sections and provided an appropriation has been made therefor.

Sec. 24-9. Grant of rights to city by abutting owners.

The right to construct, maintain and repair piping for water or sewage through a private street or way shall be granted by the abutting owners thereof to the city, and must include the free and unobstructed use of, or use for the above mentioned purpose of a right of way, whose width shall be determined by the commissioner of public works and the owners of the property. Such right of way shall not at any time be occupied by any structure or attachment thereto; nor shall the city, insofar as such agreement concerns, occupy such right of way for purposes other than construction, maintenance or repair of the sewer or water pipes,

Sec. 24-10. Waiver of damages by abutting owners.

The persons owning property abutting on a street or way referred to in this article shall waive all claims for damages that may be caused by the placing or laying of pipes for sewer or water, and all claims for damages that may be caused by any change in the grade of the street or way as recommended by the commissioner of public works and the city engineer, except such damages as may be caused by incompetent or careless workmanship during construction.

Sec. 24-11. City to place lights or guards during progress of work; owners to maintain street.

During the laying of water, sewer or drain pipes regulated by this article, the city shall protect the trenches by lights or guards in the same manner as is done in connection with its work on accepted streets, and shall, upon completion of such work, refill the trench, leaving the street in reasonably good condition, but the city shall not be required thereafter to place or maintain such street or way in safe and convenient condition for travel, nor shall it be responsible for damages

that may result from the continued use of or travel upon such street or way.

Sec. 24-12. Public works department to supervise all sewer connections.

All sewer connections under this article shall be under the supervision of the commissioner of public works.

Sec. 24-13. Payment of cost of laying sewers in new subdivisions; manner of making and collecting assessments; report of costs.

One-half of the expense of construction and laying of the several systems of sewers in new subdivisions hereafter adopted, shall be paid by the city. Assessments of the remaining half shall be made upon the owners of abutting property within the territory of such systems in accordance with the provisions of the General Laws, chapter 80 and chapter 83, sections fourteen to twenty-four. A fixed uniform rate based upon the estimated average cost of all sewers therein, both according to the frontage of such properties on any street or way where a sewer is constructed, and according to the area of such properties on any street or way where a sewer is constructed, and according to the area of such properties within a fixed depth of one hundred and twenty feet from such street or way; but no assessment in respect to any such property, which by reason of its grade or level or for any other cause, cannot be drained into such sewer, shall be made, certified or notified until such incapacity is removed. Where such properties abut upon more than one street or way, such assessment shall be made upon one such street or way, and upon so much of such other streets or ways as are not exempt by the city council, and the city council may exempt from assessment so much of the frontage on such other streets or ways as it deems just and equitable.

The commissioner of public works shall keep an accurate account of the expense of laying, making or repairing each domestic or sanitary sewer, and shall periodically report to the city council, through the mayor, in all cases where assessments for such laying, making or repairing should be made. The city engineer shall prepare and submit to the city council, through the mayor, plans of the properties to be assessed, showing names of the owners, the frontage and areas, together with a schedule showing the assessment on each of the properties upon which an assessment should be made. The amount assessed and certified by the city council shall be entered upon the plan prepared for assessments. The collection of assessments shall be accomplished in accordance with the General Laws.

ARTICLE III. Sale of Water to Adjacent Towns.[EN(106)]

Sec. 24-14. Authorization.

The water department acting by and through the commission of public works, may sell water to the several adjacent towns and its inhabitants for the extinguishment of fires and domestic and other purposes, upon petition of the selectmen of such towns.

Sec. 24-15. Agreement.

Subject to the provisions of General Law, chapter 40, sections 4A and 38 the sale of water under this article shall be upon such written terms and conditions as may be agreed upon by the town and by the mayor all such agreements shall be approved by a majority vote of the city council, prior to execution.

Sec. 24-16. Terms and conditions.

The agreement referred to in the preceding section shall contain among other conditions, the following:

(a) The entire cost of constructing and maintaining connections with and alterations of the water supply system of the city within the territory of the town for the purpose of supplying water to the town and its inhabitants shall be borne by the town.

(b) The charges for furnishing and selling water to the town and its inhabitants shall be at such rates as established from time to time by the commissioner of public works with the approval of the city council.

(c) The city shall have the right, without incurring any liability to the town or its inhabitants by reason thereof, to discontinue supplying water, whenever in the opinion of the commissioner of public works such discontinuance is deemed necessary in order to conserve water for the use of the residents of the city.

(d) Such other terms and conditions as the mayor may determine necessary.

ARTICLE IV. Use of Public and Private Sewers and Drains.

DIVISION 1. GENERALLY.

Sec. 24-17. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

BOD (denoting biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Centigrade, expressed in milligrams per liter.

Building drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (one and five tenths meters) outside the inner face of the building wall.

Building sewer. The extension from the building drain to the public sewer or other place of disposal.

Combined sewer. A sewer receiving both surface runoff and sewage.

Commissioner. The commissioner of public works of the city, or his authorized deputy, agent or representative.

Garbage. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial wastes. The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

Natural outlet. Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Person. Any individual, firm, company, association, society, corporation or group.

PH. The logarithm of the reciprocal of the weight of hydrogenions in grams per liter of solution.

Properly shredded garbage. The wastes from the preparation, cooling and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (one and twenty-seven hundredths centimeters) in any dimension.

Public sewer. A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer. A sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

Sewage. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

Sewage treatment plant. Any arrangement of devices an structures used for treating, sewage.

Sewage works. All facilities for collecting. pumping, treating and disposing of sewage.

Sewer. A pipe or conduit for carrying sewage.

Shall; may. "Shall" is mandatory; "may" is permissive.

Slug. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen minutes, more than five times the average twenty-four hour concentration or flows during normal operation.

Storm drain or storm sewer. A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Suspended solids. Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Watercourse. A channel in which a flow of water occurs, either continuously or intermittently. (11-28-72, art. 1, §§ 1--22)

Sec. 24-18. Right of entry of authorized persons for purposes of inspection, testing, maintenance, etc; credentials; entry onto properties bearing city easements; mutual indemnification.

(a) The commissioner, and other duly authorized employees of the city and/or of the Hoosac Water Quality District bearing proper credentials and other identification shall be permitted to enter all properties, of any person or entity who causes or permits the contribution of wastewater into the city's sewer system or Hoosac Water Quality District treatment works, for the purposes of inspection, observation, measurement, sampling, testing and record examination to determine compliance with provisions of this article.

(b) Persons, entities or occupants of premises where wastewater is created or discharged shall allow employees of the city and/or Hoosac Water Quality District or their representatives ready access at all reasonable times to all areas of the premises in performance of any of their duties as required in this article.

(c) The city, the Hoosac Water Quality District and the Environmental Protection Agency acting through their employees or representatives shall have the right to set upon any property subject to the provisions of this article such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering operations. Where property of any person or occupant has security measures in force which would require proper identification and clearance

before entry into their premises, the person, entity, or occupant of the property shall make necessary arrangements with their security personnel so that upon presentation of suitable identification, personnel from the city, the Hoosac Water Quality District or the Environmental Protection Agency will be permitted to enter without delay, for the purpose of performing their specific responsibilities.

(d) The commissioner and any other duly authorized employees of the city and/or the Hoosac Water Quality District bearing proper credentials and identifications shall be permitted to enter all private properties through which the city hold a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement sampling, repair, and maintenance of any portions of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(e) While performing the necessary work on private properties referred to in this section, the commissioner or duly authorized employees of the city and the Hoosac Water quality District shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees, and the city shall indemnify the company against loss or damage to its property by city employees, and against liability claims and demands for personal injury or property damage asserted against the company and growing out of gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in section 14-40. (11-28-72, art. 5, §§ 1--3; Ord. of 9-11-1984)

Sec. 24-19. Malicious, etc., tampering, etc., with sewage works.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this section shall be subject to immediate arrest under charge of disorderly conduct. (11-28-1972, art. 4, § 1)

Sec. 24-20. Notice of violations; penalties for violation of article; liability for damages.

Any person found to be violating any provision of this article except this section, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation. (11-28-1972, art. 6, §§ 1-3; Ord. of 2-9-1999)

DIVISION 2. BUILDING SEWERS AND CONNECTIONS.

Sec. 24-21. Permit for connections, etc.--Required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Commissioner of Public Works. (11-28-1972, Art. 2, § 1.)

Sec. 24-22. Same--Classes; application; fees.

There shall be two classes of building sewer permits: (a) For residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Commissioner. A permit and inspection fee of $20 for a residential or commercial building sewer permit and $20 for an industrial building sewer permit shall be paid to the City at the time the application is filed. (11-28-72, Art. 2, § 2.)

Sec. 24-23. Installation, etc., costs borne by owner; indemnification of City by owner.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (11-28-72, Art. 2, § 3.)

Sec. 24-24. Separate sewer required for each building; exceptions.

A separate and independent building sewer shall be provided for every building; except, that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (11-28-72, Art. 2, § 4.)

Sec. 24-25. Use of old sewers with new buildings.

Old building sewers may be used in connection with new buildings only when they are found,

on examination and test by the Commissioner, to meet all requirements of this article. (11-28-72, Art. 2. § 5.)

Sec. 24-26. Standards and specifications for materials and construction.

The size, slope, alignment, materials or construction or a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the City. In the absence of code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply. (11-28-72, Art. 2, § 6.)

Sec. 24-27. Elevation of building sewer.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. (11-28-1972, Art. 2, § 7.)

Sec. 24-28. Connection of downspouts, ground water drains, etc., with sanitary sewer prohibited.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. (11-28-72, Art. 2. § 8.)

Sec. 24-29. Standards for connection to public sewer; approval of deviations by Commissioner.

The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the City, the recommended sanitary sewer standards for new construction adopted by the Hoosac Water Quality District, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9, whichever is more stringent. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Commissioner before installation. (11-28-1972, Art. 2, § 9; Ord. of 11-12-2003)

Sec. 24-30. Duty of applicant to notify commissioner when ready for inspection and connection to public sewer.

The applicant for the building sewer permit shall notify the commissioner when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the commissioner or his representative. (11-28-72, art. 2, § 10.)

Sec. 24-31. Excavations to be barricaded and lighted; restoration of public property.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (11-28-72. art. 2, § 11.)

Sec. 24-32. City to make connections, etc., or supervise work.

The city shall make all connections to the public sewer and construct the building sewer within the limits of the street layout or public property. The applicant may, however, make his own connection to the public sewer and construct the building sewer within the public layout with permission of, and under the supervision of, the commission of public works. (11-28-72, art. 2, § 12.)

DIVISION 3. USE OF PUBLIC SEWERS.

Sec. 24-33. Discharges of stormwater, unpolluted industrial waters, etc.--Prohibited to sanitary sewer.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer. (11-28-72, art. 3, § 1.)

Sec. 24-34. Same--Permitted to designated storm sewers or approved natural outlets.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the commissioner. Industrial cooling water or unpolluted process waters may be discharged, on approval of the

Commissioner, to a storm sewer, or natural outlet. (11-28-72, art. 3, § 2.)

Sec. 24-35. Discharge of certain enumerated wastes prohibited.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.

(c) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(d) Solid or viscous substances in such quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders. (11-28-72, art. 3, § 3.)

Sec. 24-36. Substances requiring approval of commissioner prior to discharge--Enumerated.

No person shall discharge, or cause to be discharged, the following described substances, materials, waters or wastes if it appears likely in the opinion of the commissioner that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the same or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the commissioner will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (sixty-five degrees Centigrade).

(b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in

excess or one hundred milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred and fifty degrees Fahrenheit (zero and sixty-five degrees Centigrade).

(c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 horsepower metric) or greater shall be subject to the review and approval of the commissioner.

(d) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectional or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such materials received in the composite sewage at the sewage treatment works exceeds the limits established by the commissioner for such materials.

(f) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the commissioner as necessary, filter treatment of the composite sewage to meet the requirements of the state, federal or other public agencies or jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the commissioner in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues), or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters. (11-28-72, art. 3, § 4.)

Sec. 24-37. Same--Actions available to commissioner,

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 24-36, and which in the judgment of the commissioner, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the commissioner may:

(a) Reject the wastes.

(b) Require pretreatment to an acceptable condition for discharge to the public sewers.

(c) Require control over the quantities and rates of discharge.

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 24-42.

If the commissioner permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the commissioner and the Hoosac Water Quality District, and subject to the requirements of all applicable codes, ordinances and laws. (11-28-72, art. 3, § 5.)

Sec. 24-38. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the commissioner, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except, that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the commissioner, and shall be located as to be readily and easily accessible for cleaning and inspection. (11-28-72, art. 3, § 6.)

Sec. 24-89. Pretreatment and flow-equalizing facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (11-28-72, art. 3, § 7.)

Sec. 24-40. Control manholes.

When required by the commissioner, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary

meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the commissioner and the Hoosac Water Quality District. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times to the commissioner and the Hoosac Water Quality District. (11-28-72, art. 3, § 8.)

Sec. 24-41. Standards for measurements and tests; sampling procedure.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article, shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls whereas PH's are determined from periodic grab samples.) (11-28-72, art. 3, § 9.)

Sec. 24-42. Special agreements between city and industrial concerns.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment if approved by the Hoosac Water Quality District, subject to payment therefore, by the industrial concern. (11-28-72, art. 3. § 10.)

CHAPTER 25. FOREST CUTTING.

Sec. 25-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Major forest cutting operations: The cutting of more than 30 percent of the standing timber

over eight inches diameter breast height per acre, or clear cutting of more than five acres or any cutting which includes 30 acres or more.

Person: Any individual, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof, or any other legal entity, excluding state or federal governments operating on state or federal land. (Ord. of 4-9-1985)

Sec. 25-2. Forest cutting operations generally.

No person shall engage in major forest cutting operations within the City of North Adams before obtaining a permit from the Conservation Commission. (Ord. of 4-9-1985)

Sec. 25-3. Permitting procedures.

The person shall apply for a permit in writing, including a copy of the proposed cutting plan, to the Conservation Commission, by certified mail or hand delivered to the City Clerk of the City of North Adams, to be forwarded to the Conservation Commission. A public hearing shall be held within 14 days after one-day notice of hearing is published in a local newspaper. The cost of the newspaper notice will be paid by the person applying for said permit. The person shall furnish a list of the abutting property owners to the Conservation Commission. The Conservation Commission will notify all abutting property owners of the public hearing by first class mail.

The Conservation Commission will issue a permit when the required cutting plan is in compliance with MGL c. 132, §§ 40 through 46, and all regulations adopted under MGL c. 132, § 41, and all applicable ordinances, or issue a denial of permit with reasons therefor in writing, within seven days of the public hearing.

Proof of liability insurance by landowner or logging operations shall be made to the Conservation Commission prior to issuance of said permit.

Any person may obtain from the Conservation Commission an exemption from the provisions of the chapter by demonstrating possession of:

(1) An approved cutting plan issued by the Commonwealth of Massachusetts, pursuant to MGL c. 132, §§ 40 through 46; or

(2) A final order of condition issued pursuant to MGL c. 131, § 40.

If a major forest cutting operation involves the removal, filling, dredging or altering of any bank, fresh water wetland, flat, marsh, meadow, bog, swamp, creek, river, stream, pond or land under said waters or any land subject to flooding, a nature of intent must be filed pursuant to MGL c. 131, § 40, prior to issuance of a permit. Definitions set forth in MGL c. 131, § 40 are

hereby incorporated into this chapter and made a part hereof.

The permit, if issued, shall contain conditions necessary to protect the public health, safety, welfare, recreation, wildlife habitat and aesthetics of the community.

In the event that the applicant's previously approved cutting plan is amended pursuant to MGL c. 132, §§ 40 through 46, and all regulations adopted under MGL c. 132, § 41, then written notice of such amendment will be given to the Conservation Commission by certified mail. (Ord. of 4-9-1985)

Sec. 25-4. Landings and headers.

That area of land where logs are located in order to cut into lengths for the loading of said logs on trucks or other vehicles will not be allowed within 200 feet of a dwelling other than that of the owner of the property upon which the major forest cutting operation is being conducted, unless prior approval of the Conservation Commission has been granted. (Ord. of 4-9-1985)

Sec. 25-5. Hours restricted.

All activity connected with the major forest cutting operation, including but not limited to sawing, loading and skidding operations, shall be restricted to the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, in those areas zoned residential, and no such activity shall be permitted on Sunday or holidays. (Ord. of 4-9-1985)

Sec. 25-6. Enforcement.

The Conservation Commission is hereby empowered to enforce strict compliance with all state statutes and regulations relating to major forest cutting operations. Upon determination, after notice to all interested parties, including the Division of Forest and Parks of the Department of Environmental Management, that a violation of state statutes, rules and regulations and/or this chapter has occurred, the Conservation Commission shall be empowered to issue stop orders and seek further enforcement of said statutes, regulations and/or chapter by filing an action in the Superior Court. (Ord. of 4-9-1985)

Sec. 25-7. [EN(107)] Appeal.

Any person aggrieved by a decision of the Conservation Commission may, within 10 days from said Commission's decision, appeal such decision to the Superior Court. The party making such appeal shall at the same time send a copy thereof, by certified mail or hand delivered to the City

Clerk, to be forwarded to said Conservation Commission. (Ord. of 4-9-1985)

Sec. 25-8. Applicability.

This chapter shall not apply to any major forest cutting operation for which a cutting plan has been approved pursuant to MGL c. 132, §§ 40 through 46 and all regulations adopted under MGL c. 132, § 41, prior to the enactment of this chapter. (Ord. of 4-9-1985; Ord. of 10-22-1985)

Sec. 25-9. Abutting property.

No major forest cutting operations shall be conducted in those areas zoned residential within 40 feet of an abutters property line or within 200 feet of a residence other than that of the property owner without the prior permission of the Conservation Commission. (Ord. of 4-9-1985)

Sec. 25-10. Severability.

In the event that any portion of this chapter is declared null and void by a court of competent jurisdiction, such invalidity shall not affect any remaining portions. (Ord. of 4-9-1985)

CHAPTER 26, MOBILE HOME PARK RENT CONTROL, BOARD.

Sec. 26-1. Establishment, terms, membership.

(a) *Composition, appointment.* There is hereby established a mobile home park rent control board consisting of five (5) members representing the public interest, none of whom is to be a mobile home park tenant or mobile home park landowner, to be appointed by the mayor and confirmed by a majority vote of the city council. The members in the first instance shall be appointed for terms of one, two (2), three (3), four (4), and five (5) years. Upon expiration of a term of office, the subsequent term shall be for a period of five (5) years.

(b) *Voting, chairperson.* Any action taken by the board shall require a majority vote thereof. Within seven (7) days after the appointment and confirmation of the board as aforesaid, the board shall meet and elect one of its members as chairperson to serve in that capacity for a term of one year.

(c) *Compensation.* Members of this mobile home park rent control board shall receive no compensation for their services. (Ord. of 9-15-1982, § 1)

Sec. 26-2. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations, shall have the meaning given herein, unless the context in which they are used clearly require a different meaning:

(a) *Rent board* and *board* means the mobile home park rent control board as established herein.

(b) *Mobile home* shall mean a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities, and designed to be installed on a temporary or a permanent foundation for permanent living quarters, but shall not include modular homes set upon permanent foundations.

(c) *Mobile home park* means a park licensed by the board of health pursuant to Massachusetts General Laws, Chapter 140, Section 32B.

(d) *Capital improvement* shall mean any substantial rehabilitation, addition or improvement which appreciably adds to the value of the property or prolongs its life, or both, but not including ordinary maintenance and repairs.

(e) *Rules* and *regulations* means rules and regulations as promulgated by the board.

(f) *Shall* is mandatory, *may* is permissive. (Ord. of 9-15-1982, § 1.)

Sec. 26-3. Duties and powers generally.

(a) The board shall regulate rents, and shall promulgate such policies, rules and regulations as will further the provisions of Chapter 243 of the Acts of 1982, and shall recommend to the city council for adoption such ordinances as may be necessary to carry out the purposes of said Chapter 243.

(b) The board may make rules and regulations, compel attendance of persons and the production of papers and information, and issue appropriate orders which shall be binding on both the owner and tenant of such mobile home park accommodations.

(c) The board may refer any relevant matter to the appropriate city department or agency for further action. The board may, at the request of any mobile home park owner, render a binding opinion as to the impact of proposed capital improvements on the rents. (Ord. of 9-15-1982, § 1)

Sec. 26-4. Standards for adjusting rents.

(a) The board may make individual or general adjustments, either upward or downward, as

may be necessary to ensure that rents for mobile home park accommodations are established at levels which yield to owners a fair net operating income for such units.

(b) Fair net operating income shall be that income which will yield a return after all reasonable operating expenses, on the fair market value of the property, equal to the debt service rate generally available from institutional first mortgage lenders or such other rates of return as the board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

(c) Fair market value shall be assessed valuation of the property or such other valuation as the board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

(d) No rent adjustment shall be effective without the prior approval of the board. (Ord. of 9-15-1982, § 1)

(e) In the event that an owner makes application to the Board for a rent adjustment, the owner shall pay to the City of North Adams a processing fee for its application in the amount of $500. (Ord. of 9-28-2011)

Sec. 26-5. Summary process.

The board shall regulate standards for use or occupancy of mobile home park accommodations, and shall regulate eviction of tenants at mobile home parks, and may issue orders which shall be defenses to actions of summary process for possessions. (Ord. of 9-15-1982, § 1)

Sec. 26-6. Review.

(a) The board and its actions shall be subject to the provisions of Massachusetts General Laws, Chapter 30A (Administrative Procedures Act) as if the board were an agency of the Commonwealth of Massachusetts.

(b)(1) The District Court of Berkshire County shall have original jurisdiction, concurrently with the Superior Court, of all petitions for review brought pursuant to Section 14 of Chapter 30A of the General Laws.

(2) The Superior Court and the District Court of Berkshire County shall have concurrent jurisdiction to enforce the provisions of this chapter, and any violations thereof. (Ord. of 9-15-1982, § 1)

Sec. 26-7. Penalties for violation.

Violations of this ordinance or any order of the board shall be punished by a fine of not more than one thousand dollars ($1,000.00) for any one offense. (Ord. of 9-15-1982, § 1)

Sec. 26-8. Severability.

If any provision of this chapter or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Ord. of 9-15-1982, § 1)

CHAPTER 27. DOG REGULATIONS

Sec. 27-1. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein, unless the context in which they are used clearly requires a different meaning:

Abusive conditions: When a dog does not have access to a shelter, or when a dog is restrained by a rope or chain that is less than 15 feet in length; or when a dog is living in an area that is contaminated, insect infested or littered by feces, broken glass, nails, sharp metal or wood objects, antifreeze or other harmful objects or poisonous substances; or when a dog does not have access to a proper supply of clean water and food.

Animal Control Officer: Any person designated by the Mayor of the City of North Adams to enforce the laws relating to dogs and other animals.

At large: A dog unaccompanied by a person of adequate age and discretion to properly control its actions, and is unrestrained by a leash or chain not exceeding six feet in length.

City pound: The facility owned and operated by the City of North Adams for the purpose of impounding or care of dogs and other animals held under the authority of this chapter.

Dangerous dog: Any dog that has bitten or attacked any person or has attempted to bite or attack any person. Any dog with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals. Any dog whether leashed or not which, in a vicious manner, approaches any person in an apparent attitude of attack upon the streets, sidewalks or any public grounds or places.

Kennel: One pack or collection of dogs on a single premises, whether maintained for breeding,

boarding, sale, training, holding or other purpose, and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs six months old or over owned or kept by a person on a single premises irrespective of the purposes from which they are maintained.

Muzzle: A device placed around the mouth of a dog so as not to injure the dog but to prevent it from biting any person or animal.

Owner: Any person, firm, corporation, organization, or department owning, keeping, having an interest in, or having care, custody or control of, or harboring one or more animals. An animal shall be deemed harbored if it is fed or sheltered for 11 consecutive days or more.

Potentially dangerous dog: Any dog that is impounded or its owners cited for allowing a dog to run off leash two or more times in a twelve-month period or any dog that acts in a highly aggressive manner when unprovoked. Vocalization or barking without more aggressive behavior shall not cause a dog to be deemed of a highly aggressive manner. Determination that a dog is potentially dangerous under this section shall be in the discretion of the Animal Control Officer and the Animal Control Officer shall notify the owner of any such determination.

Restraint: Any leash, lead or other physical restraint.

Shelter: Access by a dog at all times to an enclosed dog house, enclosed porch or garage. (Ord. of 3-14-2006)

Sec. 27-2. Licensing of dogs.

Every dog six months old or over in the City of North Adams must be duly licensed.

The time between January 1 and the following December 31 shall be the license period, both dates inclusive. If a dog is moved into the City after January 1 the owner shall have 30 days to license such dog.

Such dogs shall have a current rabies vaccination at time of licensing. The owner of said dog(s) must provide either a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of section one hundred and forty-five B, or has been certified exempt from such provisions as hereinafter provided, or a notarized letter from a veterinarian that a certification was issued or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.

(a) The license fee for a dog that has not been spayed or neutered shall be $20.

(b) The license fee for a dog that has been spayed or neutered shall be $8. A registered veterinarian's certification or reasonable facsimile of same as proof of spaying or neutering shall be presented at the time of licensing.

(c) The fee for replacement of a lost dog tag shall be $5 each.

(d) Late fee for licensing a dog after May 1, $5.

(e) No license fee shall be charged for any dog used by a public agency, police dogs, search and rescue dogs and drug-sniffing dogs.

(f) A copy of these regulations shall be made available with every license sold in the City.

(g) All outstanding, dog-related, fines must be paid before a license will be issued.

(h) No license fee or part thereof shall be refunded because of subsequent death, loss, spaying or removal from the City or other disposal of the dog.

(i) All fees collected by the office of the City Clerk under provisions of this chapter shall be paid into the treasury of the City monthly on forms approved by the Mayor.

Any owner or keeper of a dog not being a resident of the City but remaining in the City and keeping a dog within the City for a period of more than 30 days shall become subject to the provisions of this chapter. (Ord. of 3-14-2006)

Sec. 27-3. Restraint of dogs.

Any owner or keeper of a dog shall not suffer or allow it to run at large, loose, or unattended in any street or public place within the City or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises grants permission therefor.

Any dog found in violation of the previous paragraph may be seized by the Animal Control Officer or any duly appointed officer or representative of the City and confined and impounded in the City pound or it may be placed in the care of a kennel duly licensed therefore or a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse.

Any dog so found at large, loose, or unattended that cannot be safely seized may be destroyed by the Animal Control Officer or any duly appointed officer or representative of the City. (Ord. of 3-14-2006)

Sec. 27-4. Public nuisance.

The owner or keeper of any dog who intentionally allows any such dog to cause a nuisance by barking, howling or otherwise in a habitual, consistent or persistent manner that disrupts the peace of the neighborhood or is an annoyance to any seriously ill person residing in the vicinity shall be deemed a public nuisance and shall be governed by the provisions of Chapter 29.

A member of the public may make a complaint in writing to the Public Safety Commissioner or his designee that an investigation be conducted to order a restraint or disposal of a dog under provisions of MGL. c. 140 s.157. (Ord. of 3-14-2006)

§ 27-5. Kennels.

Every kennel in operation in the City of North Adams must be duly licensed. Persons seeking a license renewal must present their previous license, or others must present certification from the Building Inspector showing that all applicable requirements have been met. The fee for each license for a kennel shall be as follows:

(a) Thirty dollars if not more than four dogs are kept in said kennel.

(b) Sixty dollars if more than four but not more than 10 dogs are kept in said kennel.

(c) Ninety dollars if more than 10 dogs are kept in said kennel. (Ord. of 3-14-2006)

Sec. 27-6. Restraint of dogs in estrus (heat).

All unspayed female dogs must be confined or physically restrained while in estrus. (Ord. of 3-14-2006)

Sec. 27-7. Impounding, release and disposition of dogs.

(a) The Animal Control Officer or police officer or representative of the City may cause a dog to be impounded for any one of the following reasons:

(1) If found without a license when a license is required.

(2) If found at large as set forth in § 27-3 alone.

(3) For having bitten, injured or physically molested any person.

(4) If a dangerous, potentially dangerous dog, or any dog bites or attacks a person or other domestic animal the dog may be impounded and quarantined for the proper length of time for rabies observation.

(5) Where, in the officer's opinion, a medical emergency exists or where the dog is living in unsanitary, unsafe or abusive conditions, the Animal Control Officer may take the dog to a veterinarian for treatment or have the veterinarian inspect the dog at the owner's property. Any owner or keeper of a dog who is found to be in violation of this section shall be responsible for the payment of the veterinarian's fee.

(b) Not later than three days after the impounding of any dog, the Animal Control Officer shall notify the owner or keeper. If the owner or keeper of the dog is unknown or, after reasonable efforts, is not contacted, written notice shall be posted for 10 consecutive days in the location for the posting of public notices in the City Hall, which notice shall describe the dog and the place and time of taking. Dogs impounded and unclaimed by the owner or keeper after such ten-day period shall be disposed of in accordance with the provisions of MGL c. 140, s. 151A. Any person who owns or keeps a dog and who has received such notice that the dog has been impounded by the Animal Control Officer and does not within 10 days claim said dog at the City pound shall pay a fine of $100 to cover the board and disposal of such dog. The owner or keeper shall be described as a person who has in his or her possession, for 11 consecutive days in any calendar year, a dog, licensed or unlicensed, and cannot show to the satisfaction of the Animal Control Officer that such dog was sold, killed, given away or otherwise disposed of. If such dog is claimed within 10 days, said owner or keeper will pay a fine of $20 per day for each day such dog is housed at the City pound. All pound fees, veterinarian fees, fines and notification cost, if any, must be paid before the dog is released.

(c) Any dog which has been impounded and has not been reclaimed by the owner within 10 days shall be disposed of as provided by MGL c. 140 unless otherwise provided by this chapter. If the owner does not claim the dog during such period, the dog shall be disposed of in a humane manner to be determined by the Animal Control Officer, but shall not be turned over to a medical or research center for the purpose of experimentation. It is the intent that all costs, including medical care, associated with the impoundment of a dog for any reason in accordance with this chapter and Massachusetts General Law be the sole responsibility of the owner of the dog. (Ord. of 3-14-2006)

Sec. 27-8. Dangerous and potentially dangerous dogs.

(a) To consider declaring a dog or other animal dangerous or potentially dangerous, the Animal Control Officer, or any police officer, or upon a signed complaint by a member of the public, may request of the Public Safety Commissioner or designee that an investigation to be conducted to collect any evidence which can be used to determine whether or not a dog should be declared dangerous or potentially dangerous. No dog shall be declared dangerous or potentially dangerous if the threat, injury or damage was sustained by a person committing a crime or was provoked by a person abusing the dog or other animal.

(b) If, after an investigation, the Public Safety Commissioner or designee declares that the dog is either dangerous dog or potentially dangerous, he shall notify the owner by certified mail, return receipt requested, of such declaration and issue a restraining order against the dog as authorized by MGL c. 140 s. 157.

(c) The Public Safety Commissioner or designee at his discretion may order one or more of, but not limited to, the following corrective plans of action against a dog which has been declared

dangerous or potentially dangerous:

(1) That, upon the owner's property, the dog must be so restrained or controlled so as to prevent the dog from leaving the property. A radio fence alone will not constitute restraint on the owner's property.

(2) That, upon the owner's property, the dog be so restrained or controlled as to prevent the dog from assaulting or threatening any person upon a public way or upon abutting public or private property.

(3) When not on the owner's property, the dog must be under actual physical restraint and control by way of a leash and muzzle.

(4) Enrollment and successful completion of a behavioral modification training course from a qualified instructor.

(5) Construction of a secure enclosure to house the dog while on the owner's property.

(6) Banish the dog from the City.

(7) Euthanize the dog after the expiration of 10 days.

(d) The owner of any dog declared dangerous shall post his or her property with a sign which is clearly visible to the street that reads: "WARNING, DANGEROUS DOG."

(e) If a dog has been declared dangerous or potentially dangerous, notification to the abutting and across-the-street property owners shall be made at the expense of the owner.

(f) Any owner or keeper of a dog that has been declared dangerous or potentially dangerous shall not suffer or allow it to run at large, loose, or unattended in any street or public place within the City or upon the premises of anyone other than the owner or keeper, unless the owner or occupant of such premises grants permission therefor.

Any dog that has been declared dangerous or potentially dangerous found in violation of the previous paragraph may be seized by the Animal Control Officer or any duly appointed officer or representative of the City and confined and impounded in the City pound or it may be placed in the care of a kennel duly licensed therefor or a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse.

Any dog that has been declared dangerous or potentially dangerous so found at large, loose, or unattended that cannot be safely seized may be destroyed by the Animal Control Officer or any duly appointed officer or representative of the City. (Ord. of 3-14-2006)

Sec. 27-9. Removal of dog litter.

The owner or any person walking or in control of a dog outside of the owner's or person's property shall not allow or permit such dog to defecate upon any property, public or private, unless such person shall remove all litter so deposited by such dog and dispose of same in a sanitary manner before leaving the immediate premises. The provision of this section shall not apply to a guide dog accompanying any blind person. (Ord. of 3-14-2006)

Sec. 27-10. Collection of fines.

Fines and collection of fines for violations of this chapter shall be governed by the provisions of Chapter 29 of the Revised Ordinances of the City of North Adams. (Ord. of 3-14-2006)

Sec. 27-11. Severability.

In the event that any portion of this chapter is declared null and void by a court of competent jurisdiction, such invalidity shall not affect any remaining portions. (Ord. of 3-14-2006)

CHAPTER 27A. CAT REGULATIONS

Sec. 27A-1. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein, unless the context in which they are used clearly requires a different meaning:

Keep, harbor or maintain: Any person, firm, corporation, organization, or department owning, keeping, having an interest in, or having care, custody or control of, or harboring one or more cats. A cat shall be deemed harbored if it is fed or sheltered for 11 consecutive days or more. (Ord. of 3-14-2006)

Sec. 27A-2. Cat identification required.

No person shall keep, harbor or maintain a cat that roams freely unless the owner identifies the cat or cats with an identification collar or tag that shall clearly and legibly state the cat owner's name and address and/or telephone. (Ord. of 3-14-2006)

CHAPTER 28. MASSACHUSETTS MUSEUM OF CONTEMPORARY ART CULTURAL DEVELOPMENT COMMISSION. EN(108)

Sec. 28-1. Establishment; composition.

(a) The North Adams City Council (the "council") declares that creation of a museum of contemporary art will, by bringing a large influx of out-of-state visitors, assist in promoting tourism, reducing unemployment and economic dislocation or the threat thereof, and maintaining a high level of economic activity and revitalization within the City of North Adams (the "city").

(b) The council declares that collaboration between the city, Williams College (the "college"), and such other nonprofit cultural organizations as may be designated by the college from time to time, to establish a museum of contemporary art will permit the city to profit from the college's administrative and scholarly expertise, and would uniquely suit the purposes of creating a museum of contemporary art.

(c) The council declares that the most effective way to accomplish the creation and operation of a museum of contemporary art is to create an independent commission to act on the city's behalf in bringing the plans for the museum to fruition.

(d) The Massachusetts Museum of Contemporary Art Cultural Development Commission (the "commission") is hereby established and shall consist of the mayor of the City of North Adams and eight additional members representing the public interest. Such members shall serve without compensation, but shall be reimbursed for reasonable expenses actually incurred in the performance of their duties as commission members.

(e) In order to provide the most effective collaboration between the city and the college, it is appropriate that one or more members of the commission be persons affiliated with or employed by the college. The council declares that, upon receipt of a statement setting forth the nature and circumstances of such affiliation with or employment by the college and, thereafter, full disclosure of the financial interests of such members in any contracts between the commission and the college, the council may, if it so determines, issue a written determination that any interests resulting from such affiliation or employment will not be so substantial as to be deemed likely to affect the integrity of the services which the city may expect from such members and that, accordingly, such members shall not be deemed to have a conflict of interest under the provisions of M.G.L. c. 268A, § 19, provided that they abstain from participation in any business of the commission relating to contracts between the commission and the college. (Ord. of 6-28-88)

Sec. 28-2. Appointment; terms; vacancy.

The mayor shall appoint the members of the commission with the consent of the council. In the first year, the mayor shall appoint two members to two-year terms, three members to three-year terms, and three members to four-year terms. All subsequent terms shall be three years in length and so arranged that the terms of not more than three members shall expire in any year. The appointment of each commission member shall extend until the first day of February in the year in which the member's term expires; if that day is a legal holiday, the appointment shall extend until the next business day. The mayor may reappoint members of the commission to one or more additional terms with the consent of the council. If, for any reason, a vacancy occurs in the membership of the commission, the vacancy shall be filled forthwith by the mayor, with council approval, for the unexpired term. (Ord. of 6-28-88)

Sec. 28-3. Organization; quorum.

Beginning at its first meeting, and in February of every year thereafter, the commission shall elect a chairperson and a vice-chairperson from among their own number. If the chairperson is absent from a meeting, the vice-chairperson shall assume the chair. If both the chairperson and the vice-chairperson are absent, the member with the most seniority on the commission shall assume the chair. A majority of the commission shall constitute a quorum for the transaction of business. (Ord. of 6-28-88)

Sec. 28-4. Meetings; rules.

The commission shall meet as often as it deems necessary for the proper exercise of its powers and duties. In conducting its meetings, the commission shall comply with all applicable laws, rules and regulations. The chairperson shall be responsible for setting the agenda for each meeting. A majority vote of members present is required for any motion to pass. The commission may make such additional rules and regulations for its own governance and in relation to its officers and members as it may deem expedient and proper. (Ord. of 6-28-88)

Sec. 28-5. Powers and duties.

(a) The commission may exercise all the powers vested in it under the law (Acts. 1988, Chapter 8), or prescribed to it by law, including acting on behalf of the city to undertake any project or projects to acquire land, including buildings thereon, to construct, reconstruct, rehabilitate, finish or expand facilities to be used as a Massachusetts Museum of Contemporary Art and facilities related thereto, and any other powers necessary to accomplish the purposes of this chapter.

(b) The commission may acquire and dispose of all forms of property and interests therein, subject to any restrictions set forth in Acts, 1988, Chapter 8.

(c) The commission shall establish a special fund, to be known as the Museum of Contemporary Art Fund (the "fund"), and shall deposit in such fund, in addition to any monies so determined to be deposited by the council, any grant funds received from the Commonwealth of Massachusetts under Acts, 1988, Chapter 8, which amounts may be expended by the city treasurer as authorized by a majority of the commission and without further appropriation, solely for the purpose of paying for the cost of any project or projects under the provisions of this chapter.

(d) The commission shall provide to the council such financial and other information as it may reasonably request from time to time. Such information may include, without limitation, such data as the council may require to prepare an annual auditor's or accountant's report to the Commonwealth of Massachusetts. The commission shall submit annually to the commonwealth a report which includes an audit.

(e) The commission shall be responsible for completing a study and program for the funding and development of the project as required by Acts, 1988, Chapter 8, section 2.

(f) The commission is hereby empowered to employ personnel, consultants and managers who may enter into contracts and secure loans for the purposes of this chapter.

(g) All revenues from the exhibition hall and museum shall be deposited in the fund, and may be expended in the same manner as any other amounts deposited in such fund. (Ord. of 6-28-88)

CHAPTER 29. PENALTIES.

Sec. 29-1. Criminal complaint.

Whoever violates any provisions of Chapters 2 through 28, inclusive, of the Ordinances of the City of North Adams or the Zoning Ordinance of the City of North Adams, whereby any act or thing is enjoined, ordered or prohibited, may be penalized by complaint brought in the District Court.

Unless other provision is expressly made within Chapters 2 through 28, inclusive, of the Ordinances of the City of North Adams, or the Zoning Ordinance of the City of North Adams, the penalty for each violation or offense brought in such manner shall not be in excess of $300 unless otherwise, allowed by state law. (Ord. of 10-27-1998)

Sec. 29-2. Noncriminal disposition; severability.

Whoever violates any provisions of Chapters 2 through 28, inclusive, of the Ordinances of the

City of North Adams or the Zoning Ordinance of the City of North Adams, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. This noncriminal method of disposition may also be used for violations of any rule or regulations of any municipal officer, board or department which is subject to a specific penalty. In addition to police officers, who shall in all cases be considered enforcing persons for the purposes of this section, except where state statute provides otherwise, the municipal personnel listed as enforcing persons for each section, or listed as enforcing persons by state statute, shall also be enforcing persons for such section. Each day on which a violation exists shall be deemed to be a separate offense.

The following violations may be subject to noncriminal disposition:

(1) Any violation of an order of the Director of Health-Sanitarian, Inspector of Weights and Measures and Inspector of Housing Codes which is authorized by the general laws or by any special law applicable to the City of North Adams, or any violation of a municipal ordinance, rule or regulation.

(2) Any violation of an order of the building inspector which is authorized by the General Laws or by any special law applicable to the City of North Adams, or any violation of a municipal ordinance, rule or regulation.

(3) Any violation of an order of the Public Safety Commissioner authorized by the General Laws or by any special law applicable to the City of North Adams, or any violation of a municipal ordinance, rule or regulation.

(4) Any violation of any other City of North Adams ordinance or any rule or regulation of any municipal officer, board or department, as stated by ordinance.

All fines, forfeitures and penalties shall, unless otherwise provided by law, inure to the use of the city and be paid when received into the city treasury.

The following schedule of fines is provided for civil infractions pursuant to this section:

Open containers of alcohol, Chapter 14, Sec. 14-3.1:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): police officers.

Bicycle regulations, MGL c. 85, §§ 11A and 11B:
Fine: first offense, written warning; subsequent offense, $20.
Enforcing person(s): police officers.

Canvassers and solicitors, Chapter 4:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): police officers, Inspector of Weights and Measures.

Certificate of compliance, Chapter 8, Sec. 8-47:

Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): Health Director, Building Inspector, Code Enforcement Officer.

Certificates of occupancy, Chapter 8, Sec. 8-42:
Fine: first offense $50; subsequent offense, $100.
Enforcing person(s): Health Director, Building Inspector, Code Enforcement Officer

Curfew, Chapter 14, Sec. 14-2:
Fine: first offense, $50; said fine may be waived by the City Clerk upon evidence by the Commissioner of Public Safety that said person has performed 5 hours of community service; subsequent offense, $100; said fine my be waived by the City Clerk upon evidence by the Commissioner of Public Safety that said person has performed 10 hours of community service.
Enforcing person(s): police officers.

Dogs, licensing of, Chapter 27, Sec. 27-2:
Fine: first offense, $5; subsequent offense, $10.
Enforcing person(s): police officers, Animal Control Officer.

Dogs, restraint of, Chapter 27, Sec. 27-3:
Fine: first offense, $25; subsequent offense, $50.
Enforcing person(s): police officers, Animal Control Officer.

Dogs, additional violations, Chapter 27, Sec. 27-4.
Fine: first offense, written warning; subsequent offense, $30.
Enforcing person(s): police officers, Animal Control Officer.

Dogs, kennels, Chapter 27, Sec. 27-5:
Fine: first offense, $100; subsequent offense, $100.
Enforcing person(s): police officers, Animal Control Officer.

Dogs, restraint of dogs; dogs in estrus (heat), Chapter 27, Sec. 27-6:
Fine: first offense, $10; subsequent offense, $25.
Enforcing person(s): police officers, Animal Control Officer.

Dogs, dangerous and potentially dangerous dogs; Chapter 27, Sec. 27-8:
Fine: first offense, $100; subsequent offense, $100.
Enforcing person(s): police officers, Animal Control Officer.

Dogs, removal if of dog litter; Chapter 27, Sec. 27-9:
Fine: first offense, written warning; subsequent offense, $25.

Dumping, Chapter 15B, Sec. 15B-1:
Fines: $500 or maximum allowed by law.
Enforcing person(s): police officers, Health Director, Code Enforcement Officer.

Board of Health, Food Service Establishment Regulation violations, Chapter 2, Sec. 2-102:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): Health Director, Code Enforcement Officer

Foreclosed residential properties, registration, Sec. 3-49:
Failure to register ownership:
Fine: first offense $300; subsequent offenses, $500.
Enforcing person(s): Building Inspector.
Failure to register with agent in charge:
Fine: first offense, $300; subsequent offenses, $500.
Enforcing person(s): Building Inspector.

Forest cutting, tree cutting, Chapter 25:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): Commissioner of Public Services, Conservation Commission.

Hawkers and peddlers, Chapter 9:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): police officers, Health Director, Inspector of Weights and Measures.

Disturbing highway surface, curbing or obstructing streets, Chapter 21, Secs. 21-5, 21-6, 21-8:
Fine: first offense, $100; subsequent offense, $200.
Enforcing person(s): police officers , Commissioner of Public Services.

Junk dealers, secondhand dealers, Chapter 10:
Fine: first offense, written warning; subsequent offense, $50.
Enforcing person(s): police officers, Building Inspector.

Junked vehicles, Chapter 10:
Fine: first offense, $100; subsequent offense, $100.
Enforcing person(s): police officers, Building Inspector or his/her designee.

Keg license, Chapter 12, Sec. 12-13.3(a):
Fine: first offense, $200; subsequent offense, $300.
Enforcing person(s): police officers, Commissioner of Public Safety.

License, registrations and permits, Chapter 12:
Fine: first offense, $50, subsequent offense, $100.
Enforcing person(s): police officers, Building Inspector or his/her designee, Commissioner of Public Safety or his/her designee.

Littering, Chapter 15, Sec. 15-3:
Fine: first offense, written warning; subsequent offense, $50.
Enforcing person(s): police officers, Health Director, Administrative Officer, Code

Enforcement Officer.

Regulations of other nonmotorized conveyances, Chapter 21, Sec. 21-25:
Fine: first offense, written warning; subsequent offense, $20.
Enforcing person(s): police officers.

Unlawful noise, Chapter 14, Sec. 14-4.1, Chapter 20:
Fine: first offense, written warning; subsequent offense, $100.
Enforcing person(s): police officers, Building Inspector.

Parades, Chapter 13, Sec. 13-9.2; Sec. 13-9.3:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): police officers, Commissioner of Public Safety.

Rules for use of park and recreation facilities, Chapter 7:
Fine: first offense, written warning; subsequent offense, $50.
Enforcing person(s): park police officers.

Injuring or interference with public water supply, sewer system, Chapter 24:
Fine: first and subsequent offense, $300.
Enforcing person(s): Commissioner of Public Services.

Roller skating, in-line skating and skateboarding, in the Business District, Chapter 21, Sec. 21-25.1.
Fine: first offense, written warning; second offense the police officer taking possession of the roller skates, in-line skates or skateboard; subsequent offense: the police officer taking possession of the roller skates, in-line skates or skateboard and collection of a fine of $5 to have the item taken returned.
Enforcing person(s): police officers.

Regulation of signs, Chapter 21, Secs. 21-29 through 21-34, Zoning Ordinance Section 14.
Fine: first offense, written warning; subsequent offense, $50.
Enforcing person(s): Building Inspector.

Snow and ice removal from sidewalks, Chapter 21, Sec. 21-12, Residential Property:
Fine: first and second offense, written warning; subsequent offense, $25.
Enforcing person(s): police officers, Commissioner of Public Safety.

Snow and ice removal from sidewalks, Chapter 21, Sec. 21-12, Commercial Property: Commercial Districts CA, CB, CC, CP-1:
Fine: first offense, written warning: subsequent offense, $50.
Enforcing person(s): police officers; Commissioner of Public Safety.

Planning Board, Special Permit violations, Zoning Ordinance, Sec. 3D:
Fine: first offense, $50; subsequent offense, $100.

Enforcing person(s): Building Inspector.

Streets and sidewalks, Chapter 21, Secs. 21-10, 21-11, 21-28:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): Building Inspector.

Taxicabs, Chapter 23:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): police officers.

Transfer station and recycling, Chapter 7, Secs. 7-11 through 7-11.2:
Fine: first offense, written warning; subsequent offense, $50.
Enforcing person(s): Health Director, Administrative Officer.

Transient vendor
Fine: $200 per day for the first three days; $100 per day after three days.

Vehicle operation at crosswalks, Chapter 13, Sec. 13-41.1.
Fine: first offense: $25.

Enforcing person(s): police officers.

Zoning Ordinance:
Fine: first offense, written warning; subsequent offense, $100.
Enforcing person(s): Building Inspector or his designee

Other infractions not specified above or elsewhere:
Fine: first offense, $50; subsequent offense, $100.
Enforcing person(s): Police officers, Building Inspector, Health Director, Administrative Officer.

If any provision(s) of this chapter shall be invalid for any reason, said provision(s) shall be deleted and the remainder of the chapter shall continue in full force and effect. (Ord. of 10-27-1998; Ord. of 2-9-1999; Ord. of 6-8-1999; Ord. of 9-28-1999; Ord. of 12-28-1999; Ord. of 2-26-2002; Ord. of 3-14-2006; Ord. of 8-14-2007; Ord. of 3-11-2008; Ord. of 4-22-2008; Ord. of 5-26-2009; Ord. of 3-23-2010)

Sec. 29-3. Ticket.

The form to be used as the notice of violation of any ordinance, rule, regulation or order is on file in the Office of the City Clerk. (Ord. of 10-27-1998)

APPENDIX

ZONING ORDINANCE EN(109)

AUTHORITY AND PURPOSE OF ZONING ORDINANCE

This ordinance is adopted in accordance with the provisions of Chapter 40A of the General Laws, as amended, to regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of municipalities in the general interests of public health, safety and welfare, including but not limited to the following objectives:

(a) To prevent overcrowding of land, to secure safety from fire, flood, panic and other dangers, to conserve health, to provide adequate light and air, to avoid undue concentration of population, and to lessen congestion in the streets;

(b) To facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, parks, open space and other public requirements and to encourage housing for persons of all income levels;

(c) To encourage the most appropriate use of land throughout the city, including consideration of the recommendations of the Master Plan adopted by the Planning Board;

(d) To conserve the value of land and buildings, including conservation of natural resources and the prevention of blight and pollution of the environment;

(e) To preserve and increase amenities by the promulgation of regulations designed to:

-Protect the city's significant environmental features such as floodplains and floodprone areas, wetlands, rivers, brooks, ponds, water resources, woodlands, areas of scenic beauty and sites and structures of historic importance.

-Preserve the natural, scenic and aesthetic qualities of the community.

-Minimize the adverse effects of development on the city's unique environmental and historic features.

-Further the objectives of the city's Comprehensive Plan.

-Employ cooperatively the various measures taken by the municipal agencies, under diverse legislative authority, including the State Environmental Code, Wetlands Protection Act, subdivision control legislation and the State Building Code, for the

protection and enhancement of the city's existing character and in the interests of the city's growth. (Ord. of 6-27-1978, § III (1); Ord. of 8-14-1990, §1)

SECTION 1. DEFINITIONS

For the purpose of this ordinance, certain terms or words shall be defined as below. Words in the present tense include the future, the singular number includes the plural and vice versa. The word "person" includes a partnership, corporation or other entity. The word "lot" includes the word "plot." The word "building" includes the word "structure."

Abandonment: The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises, including but not limited to the removal of characteristic equipment or furnishings, or the replacement of the nonconforming use with a conforming use.

Accessory building or use: Any building or use which is subordinate to and whose use is subordinate, incidental and accessory to the principal building or use on the same lot under the same ownership.

Affordable housing: Subject to a policy approved by the Planning Board and City Council.

Alteration: Any construction, reconstruction or other action resulting in a change in a structure, including but not limited to the height, the number of stories or exits, the size, the use or the location of a building or structure.

Appendage: The part of a mobile home that may be folded, collapsed, telescoped or added to the unit, and/or any cabana, carport, canopy or covered patio that exceeds 50 square feet in area.

Artist studio: A place of work of one or more persons who are engaged actively, and either gainfully or as a vocation, in the fine arts, including but not limited to painting, printmaking or sculpting; the performing and visual arts, including, but not limited to dance, choreography, photography or filmmaking, ceramics or the composition of music.

Bed-and-breakfast: A dwelling in which the person resident therein provides eating and/or sleeping accommodations in not more than four guest rooms which are not provided with separate cooking facilities and whose guests use the cooking facility ordinarily used by the resident family. There shall be one bathroom for every two guest rooms.

Building: Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, machinery, equipment or materials. Any other structure more than eight feet high shall be considered as a "building," including a solid fence or wall, but excluding an electric transmission line or an electric light, telegraph or telephone pole, highway or railroad bridge or flag pole.

Building area: The ground area enclosed by the walls of a building together with the area of all covered porches and other roofed portions.

Building coverage: The percentage which the aggregate building area of all buildings on the lot bears to the area of the lot.

Building height: The vertical distance from the average finished grade within 10 feet from the walls of the building to the highest point of flat or mansard roof, including the top of a parapet or to the mean level between the eaves and ridge for gable, hip or gambrel roof.

Building line: A line parallel to a street at a distance equal to the required front yard.

Change of use: A use which substantially differs from the previous use of a structure or land. Any change of use from one category of use to another (e.g., residential to commercial, etc.) or within a category of use (e.g., single-family to multifamily). A "change of use" shall also include any change of character of a business activity. (e.g., retail to wholesale). A "change of use" shall also include for purposes of site plan approval pursuant to Section 3D, a change in the occupancy/tenancy of a commercial, business, or industrial property or structure, provided that any review by the Planning Board pursuant to this paragraph, shall be limited to the criteria set forth in Section 3D.9, paragraphs (b) (f) (h) and (i).

Court: An open space, other than a yard, on the same lot with a building, which space is bounded on three or more sides by the walls of such building.

Day-care center: Any facility operated on a regular basis whether known as a day nursery, nursery school, child play school, progressive school, child development center or preschool or known under any other names, which receives children not of common parentage for nonresidential custody or care during part or all of the day separate from their parents, as further defined in the State Building Code.

Day-care center, adult/elderly: Any facility operated on a regular basis which received adults/elderly not of common kindred for nonresidential custody or care during part or all of the day.

District: A district established by the provisions of Section 2 of this ordinance.

Dwelling, one-family: A detached building, other than a mobile home, constituting a dwelling unit designed for or occupied by one (1) family only.

Dwelling, two-family: A detached building, designated for or occupied by two (2) families living independently of each other, each unit having separate or joint entrances.

Dwelling unit: An enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one (1) family.

Family: Any number of individuals related by blood, marriage or adoption, living together as a

single housekeeping unit, provided that a group of not more than four (4) persons keeping house together but not necessarily related by blood or marriage may be considered a "family." This definition may not be used to prohibit the establishment of community residents for people with disabilities.

Family day-care home: Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven (7) years of age or children under sixteen (16) years of age if such children have special needs; provided, however, in either case that the total number of children under sixteen (16) in a "family day-care home" shall not exceed six (6) including participating children living in the residence.

Home occupation: An accessory use of a single- or two-family residential structure, involving provision of professional services, or sale of goods or sale of handicrafts and artwork which generates an increase in traffic within the residential area and which:

(a) Is carried on by members of the family residing on the premises plus no more than one (1) nonresident assistant or employee;

(b) Is clearly incidental, secondary and accessory to the use of the structure for residential purposes and comprises not more than twenty (20) percent of the total floor area of the residence or four hundred fifty (450) square feet of space, whichever is less; no interior structural alteration shall be permitted if it would make it difficult to return the premises to an exclusively residential use;

(c) Has no advertising, display, external storage of equipment, vehicles or supplies associated with the home occupation or other indication of a home occupation on the premises; no person shall conduct or allow any operations outside a structure nor maintain or allow any storage or other unsightly condition outside a structure;

(d) Does not involve shipments (incoming or outgoing) by vehicles having a gross vehicle weight of more than eight thousand (8,000) pounds;

(e) Does not involve the handling, use or storage of toxic chemicals or hazardous waste and produces no obnoxious odors, vibrations, glare, heat, fumes, smoke, dust, light, electric interference or other external effect not normally associated with the use of residential property, detectable to normal sensory perception outside the structure; the use shall not produce a level of noise which exceeds the level which is normally associated with the category of dwelling or the immediate neighborhood;

(f) Does not involve the use of any accessory structures or attached garages or barns solely for the operation of the home occupation or sale of goods;

(g) Any retail sales are limited to the sale of products or goods produced or fabricated on the premises as a result of the home occupation;

(h) No external alteration to the structure which would change the residential character and appearance of the dwelling;

(i) No artificial outdoor illumination of any kind for permitted home occupations on the property, including off-street parking areas, the house or any accessory structures, other than the normal and customary outdoor lighting for single-family houses (such as a customary porch light or garage light or walkway light);

(j) Vehicular traffic generated by the home occupation does not exceed that normally expected in a residential area;

(k) Has sufficient off-street parking spaces, located to the side or rear of the residential structure, available to provide for the parking needs generated.

Occupations which do not generate an increase in traffic within the residential area do not constitute "home occupations" under this ordinance.

Hotel: An establishment providing transient accommodations to the general public containing twelve (12) or more rooms with no rooms having direct access to the outside without the necessity of passing through the main lobby of the building and providing additional services such as restaurants, meeting rooms and recreation facilities.

Inn: An establishment providing transient accommodations to the general public containing fewer than twelve (12) rooms.

Lot: A plot or parcel of land in one (1) ownership ascertainable by recorded deed or plan, occupied or capable of being occupied by one (1) principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this ordinance. In the case of multiple dwellings and public, institutional, commercial or industrial buildings, a group of buildings under the same ownership may be considered as occupying the same lot.

Lot, corner: A lot at the intersection of and abutting on two (2) or more streets.

Lot coverage: The percentage of the lot covered by all buildings, parking areas and structures.

Lot frontage: The portion of a lot fronting upon and having access to a street measured continuously along one (1) street line between side lot lines, or in the case of corner lots, between one (1) side lot line and the midpoint of the corner radius, and not to include frontage within utility transmission easements. In the case of a corner lot, frontage shall be measured on only one (1) street.

Lot, interior: A lot lacking frontage.

Lot line: The established line between lots or between a lot and a street.

Lot line, front: All dividing lines between a street and the lot shall be considered "front lines."

Lot line, side: The line or lines bounding a lot which extend from the street towards the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered "side lot lines."

Lot lines, rear: The line bounding a lot at the rear and approximately parallel to and the maximum distance from the front lot line.

Lot width: The horizontal distance between side lot lines, measured parallel to the lot frontage at the proposed building line.

Mobile home park: A mobile home park is any lot or tract of land upon which three (3) or more trailer coaches or mobile homes are occupied for dwelling purposes, including any buildings, structures or equipment located thereon in connection therewith.

Mobile home: Any structure, metal or wood, intended for, or so constructed that it will be primarily suited for, living or sleeping quarters, which is, has been or can be readily mounted on wheels. The removal of wheels, axle or both or fabrication of solid foundations under the structure does not change the classification for the purpose of this ordinance. (This does not include MODULAR OR INDUSTRIAL HOUSING that is a preassembled unit or units and transported to the site on wheels but does not have a self-contained foundation and requires location upon a permanent foundation at the building site.)

Motel: An establishment providing transient accommodations to the general public containing six (6) or more rooms with at least twenty-five percent (25%) of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Multifamily dwelling: A dwelling or group of dwellings on one (1) lot containing separate living units for three (3) or more families, having separate or joint entrances, services or facilities.

Nonconforming use: A lawfully existing use of land, building or premises which is not a use permitted by the provisions of this ordinance for the district in which such land, building or premises are situated.

Nonconforming building: A building, the use or construction of which does not conform to all the applicable provisions of this ordinance.

Nursery school: School licensed by the Massachusetts Department of Education for daytime care and instruction of preschool children.

Nursing, rest home, hospital, sanatorium: Any institution licensed by the Department of Public Health as a nursing, rest home, hospital or sanatorium pursuant to Massachusetts General Laws, Chapter 111 Sections 51 and 71.

Open space: Lot area not covered by any structure other than a swimming pool, and not used for drives, parking or storage.

Premises: A lot as defined in this section.

Retail services: Establishments providing services or entertainment as opposed to products, to the general public, including real estate, insurance and personal services.

Shopping center: A group or complex of retail establishments, including but not limited to retail sales and service stores, shops, banks, indoor theaters, restaurants and similar establishments, with immediately adjoining off-street parking facilities.

Sign: Any object, device, display or structure, or part thereof, visible to persons not located on the lot where such objects, etc., is located, which is used to advertise, identify, display, direct or attract attention to a distinct object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, atures, colors, illumination or projected images. Any change in the name of an establishment or the use being advertised by the sign shall require a sign which conforms to this ordinance.

Sign, freestanding: A sign that is attached to, erected on or supported by some structure (such as a pole, mast, frame or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as "sandwich sign," is also a freestanding sign.

Sign, temporary: A sign that (a) is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definitive period after the erection of such sign, or (b) in addition to the date(s) of the event, it is intended to remain on the location where it is erected or placed for not more than thirty (30) days. If a sign display area is permanent, but the message displayed is subject to periodic changes, that sign shall not be regarded as "temporary."

Sleeping accommodation: Any habitable room or group of rooms forming a single habitable unit, used or intended to be used for sleeping.

Street: A public way or a way maintained and used as a public way, attested to by the Commissioner of Public Services and certified by the City Clerk, or a way shown on a plan approved and endorsed in accordance with the Subdivision Control Law and the Planning Board's Rules and Regulations Governing the Subdivision of Land in the City of North Adams, or other ways in existence when the Subdivision Control Law first became effective in the city, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. "Street" shall be deemed to include the entire width of the right-of-way.

Street line: The line dividing the street and the lot.

Substantial alterations: Any repair, reconstruction on or improvement of a structure, the cost of

which equals or exceeds 50% of the assessed value of the structure either (1) before the improvement or repair is started or (2) if the structure has been damaged and is being restored, before the damage occurred. This includes the first alteration of any wall, ceiling, floor or other structural part of the building whether or not it affects the external dimensions of that structure.

Use: Synonymous with "land use." The manner in which a parcel of land or structures on the land are used by parties in possession of the land. Any use not defined or otherwise provided for within this ordinance shall be deemed not allowed except by such special permit procedures as herein provided.

Variance: Such departure from the terms of this ordinance as the Zoning Board of Appeals is empowered to authorize. See Section 16.

Veterinary hospitals and/or kennels: A structure or parcel of land used for the harboring and/or care of more than three dogs that are more than six months old, whether commercially operated or not.

Wetland: Land under any water body, swamp, wet meadow or marsh, as defined in Massachusetts General Laws Chapter 131, Section 40, and the regulations promulgated thereunder (310 C.M.R. 10.00).

Yard, front: Any open space between the building and the front lot line, extending the full width of the lot, or in the case of a corner lot, extending along all streets.

Yard, rear: Any open space between the building and the rear lot line, extending the full width of the lot.

Yard, required front, rear or side: So much of the front, rear or side yard as is required by the applicable provisions of this ordinance.

Yard, side: Any open space between the building and a side lot line, extending from the front yard to the rear yard. Any yard not a rear yard or a front yard shall be deemed a side yard. (3-13-1973, §§ 1, 2; 7-23-1974; 7-26-1976; Ord. of 6-27-1978, §§ II(17), III(2); Ord. of 6-27-1988; Ord. of 8-14-1990; Ord. of 11-10-1992; Ord. of 4-24-2001)

SECTION 2. CLASSES OF DISTRICTS

2.1 *Division into districts:* For the purpose of this ordinance, the City of North Adams is hereby divided into the following classes of districts:

Residence Districts, comprising
- R-1 Districts*
- R-IA Districts
- R-2 Districts
- R-3 Districts

Rural Districts, comprising
RU-1 Districts*

Affordable Housing Districts, comprising
AH-1 Districts

Neighborhood Commercial Districts, comprising
CA-1 Districts*
CA-2 Districts
CP-1 Districts

Central Business Districts, comprising
CB-1 Districts
CB-2 Districts

Heavy Business Districts, comprising
CC-1 Districts
CC-2 Districts

Airport District, comprising
AP-1 Districts

Industrial Districts, comprising
I-1 Districts*
I-2 Districts
I-P Districts

Urban Renewal Projects, comprising
UR-1 Main Street Urban Renewal Project
RU-2 Western Gateway Heritage State Park

Floodplain Districts, comprising
FP Districts

Floodway Districts, comprising
FW Districts

*May require compliance with Section 4, Floodway District, and Section 4A, Floodplain District.
(7-8-1969; Ord. of 2-26-1980; Ord. of 10-13-1982; Ord. of 7-26-1988; Ord. of 8-14-1990, § 2)

2.2 *Building Zone Map:* Said districts are as shown, defined and bounded on the map in two (2) sections accompanying this ordinance entitled, "Building Zone Map, City of North Adams, dated December 28, 1956," and any revisions thereto, both sections bearing the signatures of the then-Mayor, City Manager and City Clerk, and filed in the office of the City Clerk. Said map and all explanatory matter thereon are hereby declared to be a part of this ordinance.

2.3 *Zoning of streets:* Zoning districts shall include the beds of streets lying within them. When opposite sides of a street lie in different districts, the boundary shall be deemed to be the center of the right-of-way.

2.4 *Location of district boundaries:* Where a district boundary is clearly shown on the building zone map as following a lot line, such boundary shall be deemed to coincide with the corresponding lot line as it appears on the Tax Map of the City of North Adams on the date of the adoption of such zoning district boundary. Where a zoning district boundary is indicated by measurement, such boundary shall be measured perpendicularly to the street line unless otherwise indicated.

2.5 *Land under water:* Each district shall include the land lying under any lake, pond or stream therein.

2.6 *Use regulations:* No building or structure shall be erected or used and no premises shall be used except as set forth in the "Use Regulation Schedule" Symbols employed shall mean the following:

A -Allowed, a permitted use

NP -Not permitted, an excluded or prohibited use

SP -Use authorized upon issuance of a special permit

* Special conditions must be met, see specific ordinance

A "Use Regulation Schedule" is on file in the Office of the Building Inspector, Office of Community Development and the Office of the City Clerk and incorporated in this ordinance by reference. (Ord. of 8-14-1990, § 1)

SECTION 3. GENERAL AND SPECIAL REGULATIONS

3.1 *Compliance with ordinance:* No land, building or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure, shall be constructed, reconstructed, extended, enlarged, moved or altered except in conformity with this ordinance. No lot shall have an area, width or a front, side or rear yard less than that set forth in the applicable paragraph hereof, except as otherwise specifically provided in this ordinance. No building or buildings shall occupy in the aggregate a greater percentage of lot area, nor be greater in height, than as set forth in the applicable paragraph hereof, except as otherwise specifically provided in this ordinance.

3.2 *Reduction of lot area or dimensions:* No lot shall be diminished, nor shall any yard, court, or any other open space be reduced except in conformity with this ordinance.

3.3 *Required lot frontage:* No building shall be built on any lot unless such lot has the required frontage. (Ord. of 6-27-1978, § § II(18), III(3B); Ord. of 8-14-1990, § 1)

3.4 *Lots lying in more than one district:* In the case of lots lying in more than one district, the provisions of the less restrictive district may be applied for a distance of not over twenty-five (25) feet into the more restrictive district, provided that such lot has frontage on a street in the

less restrictive district.

3.5 *Open space required for each building:* Except as specifically provided herein, no part of any yard or other open space required about any building may be included as part of a yard or other open space required for any other building.

3.6 *Projection into open spaces:* Nothing in this ordinance shall prohibit the projection of not more than one foot into a required open space of pilaster, columns, belt courses, sills, cornices, or other similar architectural features, nor the planting or landscaping of such open spaces except as provided in paragraph 3.7 hereof.

3.7 *Obstructions at street intersections:* No fence, wall, hedge, shrubbery or other obstruction to vision in excess of three (3) feet in height shall be placed or allowed to grow at street intersections within the area formed by a line joining points on each front lot line twenty (20) feet from the intersection of the tangents of such streets.

3.8 *Lots adjacent to a railroad:* In the case of that portion of a lot in a district other than a residence district, where contiguous to a railroad right-of-way, no rear yard shall be required. (Ord. of 8-14-1990, § 3)

3.9 *Density of residential use:* In no case shall the number of sleeping accommodations exceed three (3) per unit of land area appearing under the heading "minimum lot area per dwelling unit" in residential districts, rural districts and in all other areas of the city not serviced by public sewer. In commercial districts, the total number of sleeping accommodations on any lot shall not exceed seven (7) for each unit of land area appearing under the heading "minimum lot area per dwelling unit" in the table applicable to the district in which such lot is located. (Ord. of 8-14-1990,§ 5)

3.10 *Use of land for access or parking:* The use of land for access to or for parking in connection with a use shall be considered to be accessory to and part of such use, except that this provision shall not prohibit access across a commercial district to a use lying in an industrial district. (Ord. of 8-14-1990, § 6)

3.11 *Accessory buildings:* Accessory buildings, attached or detached, may be located upon the lot, so as not to encroach upon any required front, side or rear yard. Detached accessory buildings not more than twelve (12) feet in height and not used for human habitation or for the housing of animals may be located in the required rear yard, and in so much of the required side yard as lies not less than seventy-five (75) feet from any street line, provided that they are not less than four (4) feet from any side or rear lot line and provided further that they occupy in the aggregate not more than twenty (20) per cent of the area of the required rear yard. By agreement of the owners of adjacent lots, accessory buildings, with the same limitation of use, height and area, may be located in the required rear yard on the lot line provided that the party or other walls on the lot line are of masonry construction.

3.12 *Lots on Hoosac River:* In the case of lots bordering the Hoosac River or either branch

thereof, no building shall be built nearer than fifteen (15) feet from the bank of the river, as established by the city engineer, and no land within such distance shall be filled in any manner to obstruct the flow of the river at any time. (Ord. of 8-14-1990, § 11)

3.13 *One building per lot:* Not more than one (1) principal building shall be erected on a lot unless each such building is served by access determined by the building inspector, after consultation with the planning board to be functionally equivalent to that required under the Rules and Regulations Governing the Subdivision of Land in North Adams. In addition not more than one (1) residential structure shall be erected on a single lot except by special permit from the planning board upon a determination that each building will have access which is functionally equivalent to that required under the Rules and Regulations Governing the Subdivision of Land in North Adams. (Ord. of 8-14-1990, § 12)

3.14 *Buildings to have access on street:* Every dwelling or principal building hereafter erected or moved shall be on a lot having frontage on a street as defined in Section 1 Definitions. (Ord. of 8-14-1990, § 13)

3.15 *Veterinary hospitals and/or kennels:* The following standards shall be applied by the zoning board of appeals when receiving an application for a special permit for a veterinary hospital and/or kennel. For the purposes of this ordinance, veterinary hospitals and/or kennels shall be defined as a structure or parcel of land used for the harboring and/or care of more than three (3) dogs that are more than six (6) months old, whether commercially operated or not. (Ord. of 8-14-1990, § 14)

3.15.1 (a) The veterinary hospital and/or kennel must be carried on in such a manner as not to substantially injure appropriate use of adjoining property or adversely affect the existing development or character of the neighborhood.

(b) No egress or ingress with reference to such property shall be from or to a residential subdivision street.

(c) Area--Veterinary hospitals and/or kennels shall have a minimum lot area of not less than one acre.

(d) Setbacks--Buildings, structures or runs used in connection with such purposes shall not be within seventy (70) feet of any street or property lines.

(e) Lighting--Outdoor lighting shall be so shielded as to cast no light upon adjacent property or public ways.

(f) Veterinary hospitals and/or kennels in a residential district or adjacent to a residential or institutional use shall be screened along the side and rear property lines.

(g) Parking--A minimum of three (3) parking spaces per doctor are required.

3.15. 2 Special permits can only be granted in the following zoning districts:

Residential: RU-1, R-IA
Commercial: CC-1
Industrial: I-1
(Ord. of 8-14-1990, § § 15, 16)

3.16 *Storage:* Except for the off-street parking of vehicles of customers and employees, the outside storage of goods, equipment and vehicles shall not exceed in ground area coverage more than fifty percent (50%) of the coverage of the building or buildings and shall be suitably screened from view from the public highway and adjourning property by appropriate fencing, grading or landscaping. (Ord. of 8-14-1990, § 17; Ord. of 10-13-1992)

3.17 *Unregistered or junk motor vehicles:*

3.17.1 Definition of "unregistered motor vehicle." Any motor vehicle required to be registered by law of the Commonwealth of Massachusetts for operation on public ways not so registered. (Ord. of 8-14-1990, § 6)

3.17.2 Definition of "junk motor vehicle." Any motor vehicle not capable of being used as such in its existing condition by reason of being damaged or dismantled beyond repair or failing to contain parts necessary for operation. (Ord. of 8-14-1990, § 6)

3.17.3 No unregistered motor vehicle shall be parked, stored, or otherwise placed in, on or upon land in any zoned district for a period of more than six (6) months subsequent to January 1 of any year or subsequent to the required registration date of a former nonresident, except as is hereinafter provided. (Ord. of 8-14-1990, § 6)

3.17.4 No "junk motor vehicle" shall be parked, stored or otherwise placed in, on or upon land by the owner of said vehicle; nor shall same be allowed to be so parked, stored or otherwise placed in, on or upon land by the owner, lessee or authorized agent thereof, in any zoned district for a period of more than three (3) consecutive days except in those areas as is hereinafter provided. Upon determination by the Building Inspector that said vehicle exists, he shall place a ticket on said vehicle requiring removal within three (3) days. Upon expiration of this three-day period, the Building Inspector is authorized to arrange to have said vehicle removed at the owner's expense.

At the expiration of the three-day period mentioned herebefore, the owner of said vehicle or the said owner, lessee or authorized agent of the owner of the land is prohibited from moving said vehicle to any area or zone except those areas as are hereinafter provided. (9-28-1965; Ord. of 12-11-1979; Ord. of 8-14-1990, § 6)

3.17.5 Subsection 3.17 hereof shall not be applicable to such "unregistered and/or junk motor vehicle" which is housed, garaged or so situated that same is completely hidden from public view. (Ord. of 8-14-1990, § 6)

3.17.6 Notwithstanding any provision hereinafter set forth permitting accessory uses customarily incidental to a permitted use, no unregistered and/or junk motor vehicle can be parked, stored or placed on land used in conjunction with such permitted use, except in, on or upon the lot where the permitted use has its primary function or on a lot immediately adjacent thereto if otherwise permitted by the provisions of this ordinance. (Ord. of 8-14-1990, § 6)

3.17.7 In the event that an owner of an "unregistered" and/or "junk motor vehicle" satisfies the Building Inspector that he intends to register same in the case of an unregistered motor vehicle, or intends to replace necessary parts or repair a motor vehicle for operation and use as such in the case of a junk motor vehicle, the Building Inspector may extend the six-month period mentioned in 3.17.3 above or may extend the thirty-day period mentioned in 3.17.4 above, upon such conditions and terms that are reasonable and proper. If any person be aggrieved by the decision of the Building Inspector he may appeal to the Zoning Board of Appeals. (6-13-1967; Ord. of 5-8-1979; Ord. of 8-14-1990, § 6)

3.18 *Commercial vehicles and/or equipment:* No commercial vehicle or pieces of equipment, including but not limited to commercial delivery vehicles, box trucks, dump trucks, long haul trucks, semitrailers or tractors, excavators, bulldozers, backhoes, etc., with a gross vehicle weight of over 26,000 lbs. shall be parked or stored in a residential zone. (Ord. of 5-27-2008)

SECTION 3A.1. MAIN STREET URBAN RENEWAL PROJECT

The land use controls of the urban renewal plan entitled Main Street Urban Renewal Plan, Code R-213, approved by the City Council of the City of North Adams on May 9, 1967, which plan is made a part hereof and incorporated herein by reference, shall be in full force and effect in the UR-1 district in said City of North Adams; excluding therefrom, however, any provision therein allowing or permitting the redevelopment authority to modify, amend, change, or alter .at their discretion any provision thereof. (6-13-1967[EN(110)])

SECTION 3A.2. WESTERN GATEWAY URBAN HERITAGE PARK

The land use controls of the urban renewal plan entitled Western Gateway Urban Heritage Park Urban Renewal Plan, approved by the city council of the City of North Adams as Council Paper No. 8704-3 and incorporated herein by reference, shall be in full force and effect in the UR-2 District in said City of North Adams; excluding therefrom, however, any provision therein allowing or permitting the redevelopment authority to modify, amend, change, or alter at their discretion any provision thereof. (Ord. of 10-13-1982)

SECTION 3B. WINDSOR LAKE WATERSHED DISTRICT

3B.1 *Purpose of district:*

(a) The protection, preservation and maintenance of Windsor Lake so as to preserve and protect the present and future water quality for the public health and safety;

(b) The conservation of that natural resource and the preservation and enhancement of its scenic beauty; and

(c) The prevention of adverse use, unsuitable development and overcrowding of lands affecting the lake. (Ord. of 8-28-1979)

3B.2 *District boundaries:* The Windsor Lake Watershed District, delineated on Map Three of the city zoning map, shall be considered as overlying other districts as indicated on Maps One and Two of the city zoning map, in recognition of the special environmental conditions which exist in the area of the lake. (Ord. of 8-28-1979)

3B.3 Permitted uses:

3B.3.1 Except as specified below, any uses permitted and as regulated by the remainder of this zoning ordinance within that portion of the zoning map overlaid by this district shall be permitted provided that they do not require structures, fill, dumping or excavation of earth materials, unless so authorized by a special permit from the planning board subject to the provisions of this section. (Ord. of 8-28-1979)

3B.3.2 Sanitary landfills and other refuse disposal sites are prohibited. (Ord. of 8-28-1979)

3B.3.3 Any permitted use in the Windsor Lake Watershed District requiring a special permit under this section shall be-subject to the "Land Use Guidelines for development within the Windsor Lake Watershed District" [as set out immediately following this paragraph]. The planning board, however, may exempt any regulated proposed use from any or all of the provisions of the guidelines if it determines that the proposed use will not significantly affect the quality of Windsor Lake. Prior to making such a determination, the planning board shall consider the recommendations received from review of the special permit application under section 3B.5.2. (Ord. of 8-28-1979)

LAND USE GUIDELINES FOR DEVELOPMENT WITHIN THE WINDSOR LAKE WATERSHED DISTRICT

(1) *For all uses within the district*:

(a) *Erosion control for earth-disturbing activities on steep slopes:* Construction activities on steep slopes should be minimized. However, if such construction is necessary, erosion control practices should be followed. Uses requiring structures, fill, dumping or

excavation of earth materials on slopes of fifteen (15) per cent or greater must comply with the erosion control requirements of guideline (2)(c) below.

(b) *Control of surface water runoff:* To the extent practicable, surface water runoff from paved areas associated with the proposed use shall be kept from draining directly into Windsor Lake. Broad, shallow vegetated channels to carry stormwater runoff are encouraged; and where possible, the channel should be designed for a flow velocity of one foot per second or less.

(2) *For all uses both within three hundred feet of the lake and within the district:*

(a) *Building setback:* No building shall be installed or constructed within one hundred (100) feet of the shore of the lake. In the case of a lot which at the time of the adoption of this Section 3B and continuously thereafter was owned separately from any adjoining lot, where it is not possible to comply with the one-hundred-foot setback requirement for buildings due to the size or shape of the lot, buildings may be allowed within one hundred (100) feet of the shore of the lake provided that they are set back from the lake as far as is possible without encroaching on any required front, side or rear yard.

(b) *Wastewater disposal system setback:* No on-lot sewage disposal system such as a septic tank, cesspool or leaching field, or the drainage system for wastewater from showers and sinks, shall be constructed within one hundred fifty (150) feet from the shoreline of Windsor Lake. In the case of a lot which at the time of the adoption of this Section 3B and continuously thereafter was owned separately from any adjoining lot, the board of health may authorize construction or installation of such a disposal system at a reduced distance not less than the minimum standards of the State Environmental Code, Title 5, if the board of health determines that because of the size or shape of the lot, compliance with the one hundred fifty-foot setback is not possible, and that the proposed disposal system would provide adequate protection to the water quality of Windsor Lake.

(c) *Erosion control:*

1. Any earth-disturbing activity such as excavation, grading or filling shall be conducted in such a manner as to effectively reduce soil erosion and resulting sedimentation.

2. All earth-disturbing activities shall be designed, conducted and completed in such a manner that the disturbed land shall be exposed for the shortest possible period of time.

3. Permanent vegetative stabilization techniques to control soil erosion in all disturbed land area shall be implemented within two (2) weeks after final grading or the final earth-disturbing activity has been completed. Techniques used shall generally be in accordance with measures described on pages 53 through 59 of the "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts," USDA Soil Conservation Service, October 1975, although other techniques may be used if they are

of equal or greater effectiveness.

4. When it is not possible to permanently stabilize a disturbed area, temporary soil erosion control measures shall be implemented within two (2) weeks after significant earth disturbing activity ceases. Where temporary erosion control is needed for a period of two (2) months or less, techniques used shall generally be in accordance with the measures described on pages 62 and 63 of the USDA publication referenced in guideline (2)(c)(3), although other techniques may be used if they are of equal or greater effectiveness. Where temporary erosion control is needed for a period of two (2) to twelve (12) months, techniques used shall generally be in accordance with the measures described on pages 52, 62, and 63 of the USDA publication referenced in guideline (2)(c)(3), although other techniques may be used if they are of equal or greater effectiveness. (Ord. of 8-28-1979)

3B.4 *Restrictions:* The planning board may issue, in accordance with the provisions of Section 9, Chapter 40A of the General Laws of Massachusetts and section 16.2 of this zoning ordinance, a special permit under this Section 3B, if the board determines after a public hearing that the proposed use is not an adverse use of land at the proposed location in the Windsor Lake Watershed District and not contrary to the purposes for which such district has been established and the permitted uses listed above in paragraph 3B.3. (Ord. of 8-28-1979)

3B.5 *Requirements:*

3B.5.1 Any person desiring to establish any permitted use in the Windsor Lake Watershed District requiring a special permit under the provisions of this section shall submit an application to the planning board describing in detail the proposed use and the work to be performed, accompanied by plans and information as listed in section 16.2 and including the following:

(a) The location, boundaries and dimensions of the lot, and the existing and proposed structures, watercourses, easements, means of access, and water supply and sewage disposal facilities; and

(b) Such soils, topographic, slope and other maps, in detail commensurate with the scale of the proposed undertaking and such other data and reports as are needed by the board for determining the effect of the proposed activity on surface and groundwater hydrology, water quality, soil erosion and sedimentation, natural habitats, scenic or historic environs, and other aspects of environmental concern. (Ord. of 8-28-1979)

3B.5.2 The planning board shall submit any application for a special permit under this section for review and recommendations to the board of health, city engineer, conservation commission, and other city agency or official as found advisable, in accordance with section 16.2.3 of this ordinance. An application may also be submitted to the U. S. Soil Conservation Service or to any other qualified professional consultant as found

advisable. (Ord. of 8-28-1979)

3B.5.3 Granting of a special permit under this section does not in any way indicate compliance with any of the provisions of the Wetlands Protection Act, Section 40, Chapter 131 of the General Laws of Massachusetts. (Ord. of 8-28-1979)

SECTION 3C. RESERVED EN(111)

SECTION 3D. SITE PLAN APPROVAL

3D.1 *Purpose.* For the purpose of assuring proper drainage, safety, administering provisions of this ordinance in regard to parking and loading areas, signs, screening and to assure adequate consideration for abutting land owners and to assure sensitive and appropriate treatment of historic properties and areas, a site plan shall be submitted for the following:

(a) All new construction, except for single- or two-family homes.

(b) All additions, exceeding two hundred (200) square feet of gross floor area, except for single or two (2) family homes.

(c) Changes in use, as defined "Changes of Use" in Section 1.

(d) All changes in land use, as defined "Changes of Use" in Section 1. (Ord. of 6-28-1988; Ord. of 8-14-1990, § 1)

3D.2 *Special permit granting authority.* The planning board shall be the special permit granting authority for purposes of this section. No person shall commence development of any uses for which a site plan is required without first obtaining a special permit from the planning board under the provisions of this section. (Ord. of 6-28-1988)

3D.3 *Special permit.* Special permits issued under this section shall contain reasonable orders, conditions and requirements concerning the siting and design of buildings and landscaping, major topographic changes, provisions for surface and ground water, drainage, protection against flooding and inundation, prevention of water pollution and environmental damage, erosion control, locations of driveways or signage and to further the purposes and objectives of the Zoning Ordinances and the Zoning Acts and to avoid detriment to the neighborhood in which the use is to occur including the historic aspect of the neighborhood. (Ord. of 6-28-1988; Ord. of 8-14-1990, § 2)

3D.4 *Application for special permit*. Applications for a site plan approval special permit shall contain an application form, a site plan and a determination of applicability from the conservation commission that the proposed project is an area subject to the Wetlands Protection Act and therefore requires an order of conditions or that an order of conditions is not necessary.

If an order of conditions is necessary, the order should be submitted as part of the application. (Ord. of 6-28-1988)

3D.5 *Site plan.* A site plan may be prepared on one or more sheets to show clearly the information required herein and to facilitate the review and approval of the plan.

3D.5.1 The site plan, or any portion thereof, involving engineering, architecture or land surveying, shall be prepared by a duly authorized engineer, architect, landscape architect or land surveyor. Any site plan prepared by a registered engineer, architect, landscape architect or land surveyor shall bear on each sheet the seal of registration and actual signature of the preparer, as well as the date of preparation. All plans, whether or not prepared by a registered professional, shall bear on each sheet, the actual signature of the preparer and the date of preparation. The planning board may waive the need for a registered professional by a majority vote based on the scope of the project.

3D.5.2 Said site plan shall show the following drawn to a scale adequate to represent the required information.

(a) A key map showing the relationship of the subject property to adjoining properties, existing streets, road and railroad rights-of-way within one thousand (1,000) feet of any part of the property.

(b) All property boundaries and the use and ownership of abutting land within two hundred (200) feet of the proposed site and the location and use of any building thereon of the subject property. The North Adams Assessor's Maps, as amended to the date of filing said site plan, shall be acceptable to show the information required by this paragraph.

(c) All existing and proposed buildings, structures, parking spaces, driveway openings, loading areas and service areas on subject property.

(d) Provisions for screening, surfacing, lighting, landscaping (including fences, walls, planting areas and walks) and signs.

(e) Provisions for waste disposal, drainage, dust, erosion control and other utilities.

(f) Interior plans, if deemed relevant by the planning board.

(g) Topographic data for the property at two (2) foot contour intervals, showing the existing and proposed grades and the location of natural features, such as streams, swamps, rock outcrops and major trees six (6) inches or more in diameter. The planning board may waive the need for topographic data by a majority vote based on the scope of the project.

(h) The name of the development, the name and address of the record owner or developer, north arrow, scale, date, all easements or rights-of-way provided for public services or utilities.

(i) A detailed computation of total lot area, of building floor area for each type of proposed use, and lot coverage by all buildings.

(j) The planning board may require further information with respect to such elements listed above. (Ord. of 6-28-1988)

3D.6 *Procedure.* The following procedure shall be implemented upon the receipt of an application for a special permit under this section:

3D.6.1 An application for a site plan approval special permit subject to this section shall be submitted, in triplicate, to the city clerk, who shall give the applicant a dated receipt.

3D.6.2 The city clerk, within two (2) working days of receiving such application shall transmit two (2) copies to the planning board.

3D.6.3 The planning board shall, within five (5) working days after receipt of the application, transmit copies of the application to the board of health, conservation commission, historical commission, city engineer, commissioner of public services, and commissioner of public safety. Any board or department to which such an application is transmitted for review shall make in writing such recommendations as it deems appropriate, provided, however, that failure to make recommendations within thirty (30) calendar days of receipt by the board or department shall be deemed approval of the application.

3D.6.4 If the planning board finds that the application does not show the information specified in section 3D.5, they shall return the plan to the applicant with a copy of their report. No special permit shall be granted on the basis of an application deemed incomplete or insufficient in accordance with the provisions of this section.

3D.6.5 If the plan does comply the planning board shall conduct a public hearing within sixty-five (65) calendar days of the receipt of the plan by the city clerk.

3D.6.6 Notice of the public hearing shall be given by publication in a newspaper of general circulation in the city, once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) calendar days before the date of such hearing and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen (14) calendar days before the date of such hearing and by mailing notice of the hearing, postage prepaid to "parties of interest" as provided in Section 11, Chapter 40A of the General Laws. Parties of interest shall include the applicant, owner of the property if other than the applicant, abutters, owners of land directly opposite on any public or private street or way and owners of land within three hundred (300) feet of the property line, as they appear on the most recent applicable tax list.

3D.6.7 The planning board may, in approving such a plan, establish a time period within which the special permit so granted shall-be exercised. Such time period shall not exceed two

(2) years.

3D.6.8 The granting of a special permit under the provisions of this section shall require a two-thirds vote of the planning board.

3D.6.9 The applicant shall be notified, within ninety (90) calendar days of receipt of the application by the city clerk, by the planning board of a plan meeting the requirements above and of the actions taken, or approval will be assumed.

3D.6.10 No building permit shall be issued for any building or structure or use of land for which site plan approval is required unless approval thereof shall have been obtained in compliance with the above; nor shall any building permit be issued unless a performance bond is posted in the amount equal to the estimated cost of the completion of the work for which site plan approval is required. The planning board may waiver the performance bond by a majority vote. (Ord. of 6-28-1988)

3D.7 *Withdrawal of application.* Any application for a special permit under this section, that has been accepted by the city clerk, may be withdrawn without prejudice by the applicant at any time prior to the first publication of the notice for a public hearing thereon, but thereafter may be withdrawn without prejudice only with the approval of the planning board. (Ord. of 6-28-1988)

3D.8 *Review by other boards and departments.* Any board or department may recommend and the planning board may impose, such additional requirements and restrictions for any use as in the judgment of the reviewing boards and departments are necessary for the protection of public health, safety and welfare; the environment; historic integrity; and neighboring uses. (Ord. of 6-28-1988)

3D.9 *Criteria.* In reviewing such applications, the Planning Board shall consider the following:

(a) Protection of adjoining premises and the general neighborhood from any detrimental impact resulting from the use of the subject property, including, but not limited to, creation of a nuisance by virtue of noise, odor, unsightliness, signs or vibration.

(b) Adequacy as to the arrangement of proposed buildings, structures, signs, screening and landscaping.

(c) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements.

(d) Adequacy of the methods of disposal for sewage, refuse and other wastes and of the methods of drainage of surface water.

(e) Provisions for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the subject property.

(f) Adequacy, arrangement and number of off-street parking spaces in relation to proposed

uses.

(g) Protection of wetland and wildlife habitat.

(h) Protection of significant historic, scenic and environmental features of the city.

(i) Building design, site layout and landscaping will be in a manner which compliments the attractiveness of the city and the surrounding environment. (Ord. of 6-28-1988; Ord. of 8-14-1990, § 3)

3D.10 *Granting or denying special permit.* The Planning Board, after site inspection and public hearing, shall grant the requested special permit, shall deny the permit or shall grant the permit subject to special conditions.

3D.10.1 In malting its decision, the Planning Board shall give due consideration to recommendations of other boards and departments as provided in Section 3D.8.

3D.10.2 Before granting the special permit, the Planning Board shall make and the record of the hearing shall contain specific findings that the proposed use meets each of the criteria listed in Section 3D.9 and all required findings under MGL C. 40A and Section 16 of this ordinance and shall state specific reasons why each is met. (Ord. of 6-28-1988; Ord. of 8-14-1990, § 4)

3D.11 *Extension of time for Planning Board action.* The period within which final action shall be taken may be extended to a time certain by mutual agreement of the Planning Board and the applicant.

3D.12 *Inadequate information.* In the event that the Planning Board determines that the site plan and data presented to it at the public hearing are inadequate to permit the Board to make a finding and determination, it may, in its discretion, either deny the application without prejudice or adjourn the hearing to a later date to permit the applicant to provide additional data or revisions of the site plan or both; provided, however, that such adjournment shall not extend the period within which final action under this section must be taken by the Board, unless such period is extended to a day certain by mutual assent to the Board and the applicant. (Ord. of 6-28-1988)

3D.13 *Certificate of occupancy and conformity with site plan.* No certificate of occupancy shall be issued for use of any building or structure or use of land under this section, unless the building or structure is constructed or used or the land is developed or used in conformity with an approved site plan or any amendment of such plan. (Ord. of 6-28-1988)

3D.14 *Revision and waiver of plan requirements.* A site plan may be revised by submitting a written request or revision to the Planning Board. The Planning Board will review the request and determine if the revision is considered a minor change or a major change to the overall site plan. If determined by the Board to be a minor change, the Board will vote to accept or deny the

requested revision at a regularly scheduled meeting. If determined by the Board to be a major revision, a public hearing on the change will be scheduled and duly noticed. (Ord. of 10-13-1992)

3D.14.1 Compliance with all of the foregoing requirements may be waived upon written request by the applicant to the Planning Board and the Board may so waive such compliance when in the judgment of the Planning Board such waiver is not contrary to the public interests and not inconsistent with the provisions, intent and purposes of this ordinance. (Ord. of 6-28-1988; Ord. of 8-10-1993)

SECTION 3E. AFFORDABLE HOUSING EN(112)

Subject to a policy approved by the Planning Board and City Council. (Ord. of 8-14-1990)

SECTION 4. FLOODWAY DISTRICT

4.1 *Purposes:* The purposes of this district, in addition to those enumerated elsewhere in this Zoning Ordinance are:

(a) To protect human life and property from hazards of periodic flooding and to protect the public from the burden of costs resulting from unwise individual choices of land use.

(b) To protect, preserve and maintain the water recharge areas within the city so as to preserve present and potential water supplies for the public health and safety of the city.

(c) To assure the continuation of the natural flow pattern of the watercourses within the city, in order to provide adequate safe floodwater storage capacity to protect persons and property against the hazards of flood inundation. (Ord. of 8-14-1990)

4.2 *District delineation:*

(a) The Floodway District is based on hydraulic considerations with regard to requirements of the Federal Insurance Administration.

(b) The Floodway District includes all areas designated as "floodway" on the Floodway Flood Boundary and Floodway Maps, City of North Adams, Massachusetts, Berkshire County, prepared by the Federal Emergency Management Agency and dated July 2, 1981. (Ord. of 8-14-1990)

4.3 *Use regulations:*

(a) The Floodway District is established as an overlay district to all other districts.

All development must be in compliance with MGL C. 131, § 40, and requirements of the

Massachusetts State Building Code.

(b) The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed as a matter of right, provided that they do not require permanent structures, fill or storage of materials or equipment.

1. Agricultural uses such as farming, grazing, and horticulture;
2. Forestry and nursery uses;
3. Outdoor recreational uses, including fishing, boating, play areas;
4. Conservation of water plants and wildlife;
5. Wildlife management areas, foot, bicycle, and/or horse paths;
6. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises; and
7. Maintenance, repair, reconstruction and additions of up to fifty percent (50%) of the square footage of structures lawfully existing prior to the adoption of these provisions.
8. In case of fire, natural catastrophe or total rehabilitation of structures existing in the Floodway District prior to the adoption of these provisions, said structure may be rebuilt to the original size, subject to the requirement of the new structure shall conform to the provisions for floodproofing found in the State Building Code.

(c) The following uses are prohibited in the Floodway District:

1. The construction of new buildings or structures;
2. The removal, filling, dredging, or altering of any lake, pond, river, stream, brook, marsh, swamp, bog, or meadow, except as may be permitted in Sections 4.3(b) and the Wetlands Protection Act;
3. The installation of septic tanks or leach fields;
4. The storage of salt, petroleum or other chemical products; and
5. Encroachments, including fill, new construction, substantial improvements to existing structures, and other development in the floodway unless certification by a registered professional engineer is provided by the applicant, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood. (Ord. of 8-14-1990)

SECTION 4A. FLOODPLAIN DISTRICT

4A.1 *Purposes:* The purposes of this district are the same as those noted in Section 4.1. (Ord. of 8-14-1990)

4A.2 *District delineation:*

(a) The floodplain district delineations are established by elevations of area subject to inundation by 100-year frequency floods, as delineated by the Federal Emergency Management Agency (FEMA).

(b) The floodplain district includes the floodway fringe and the 100-year flood boundary as designated on the Floodway Flood Boundary and Floodway Map City of North Adams, dated July 2, 1981 as amended, which is hereby made a part of this ordinance and which is on file at the office of the city engineer and building department. The explanatory data contained in the "Flood Insurance Study, City of North Adams, Massachusetts, Berkshire County," dated January 2, 1981, as prepared by the Federal Emergency Management Agency (FEMA), shall be used in the interpretation of the said map, and for such purpose the said flood insurance study is hereby incorporated in this ordinance.

(c) The floodplain district also includes all that land along any named or unnamed water body or water course for a horizontal distance of fifty (50) feet from the permanent or seasonal banks thereof except as otherwise defined on the Flood Insurance Rate Maps (FIRM).

(d) Within the floodway fringe, where the 100-year flood elevation is not provided on the floodway map, the developer/ applicant shall obtain any existing flood elevation data and it shall be reviewed by the building inspector. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this ordinance and the State Building Code. (Ord. of 8-14-1990)

4A.3 *Use regulations:*

(a) The floodplain district is established as an overlay district to all other zoning districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL, Chapter 131, Section 40 and requirements of the Massachusetts State Building Code pertaining to construction in floodplains.

(b) The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed as a matter of right, provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment.

1. Agricultural uses such as farming, grazing, and horticulture;
2. Forestry and nursery uses;
3. Outdoor recreational uses, including fishing, boating, play areas;
4. Conservation of water plants and wildlife;
5. Wildlife management areas, foot, bicycles, and/or horse paths;
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and
7. Maintenance, repair, reconstruction and additions of up to fifty (50) percent of the square footage of structures lawfully existing prior to the adoption of these provisions.
8. In case of fire, natural catastrophe, or total rehabilitation of structures existing in the floodplain district prior to the adoption of these provisions, said structure may be rebuilt to the original size, subject to the requirement of the new structure shall conform to the provisions for floodproofing found in the State Building Code.

(c) The following uses are prohibited in the floodplain:

1. The removal, filling, dredging, or altering of any lake, pond, river, stream, brook, marsh, swamp, bog, or meadow, except as may be permitted in Sections 4A.3(b) or 4A.3(d) and the Wetlands Protection Act;
2. The installation of septic tanks or leach fields;
3. The storage of salt, petroleum or other chemical products; and
4. Encroachments, including fill, new construction, substantial improvements to existing structures, and other development in the floodway unless certification by a registered professional engineer is provided by the applicant, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.

(d) The following uses may be allowed by special permit from the planning board, subject to the requirements of Section 4.4:

1. The construction or erection of new buildings or structures, other than mobile homes;
2. Municipal, county or state parks;
3. Forestry management;

4. Wells or other structures necessary for proper functioning of municipal or private water supplies;

5. Public utilities;

6. Construction and maintenance of dams and other water control devices; and

7. Roadways, driveways and walkways ancillary to uses otherwise permitted by this section. (Ord. of 8-14-1990)

4A.4 *Planning board:* The planning board may issue a special permit for the uses described in Section 4A.3(d). Said board may issue a special permit hereunder (subject to the other applicable provisions of this ordinance) only if the application complies with the, following provisions:

(a) The proposed use shall comply in all respects with the provisions of the underlying zoning district; and

(b) The application shall be reviewed by the conservation commission, planning board, board of health and building inspector. Within ten (10) days of the receipt of the application, the planning board shall transmit one (1) copy of the development plan to each of the above-named boards. The planning board shall take no final action until reports have been received from the above boards or until thirty-five (35) days have elapsed.

(c) The planning board may specify such additional requirements and conditions it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use;

(d) All structures will be floodproofed in accordance with the State Building Code;

(e) All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage or hazard.

(f) Site drainage shall be provided in a manner that will result in no increase in site or downstream flood hazard. (Ord. of 8-14-1990)

SECTION 5. RESIDENCE DISTRICTS

5.1 *Uses permitted:*

5.1.1 One and two family dwellings. (3-13-1973, § 3; Ord. of 8-14-1990, § 1)

5.1.2 Dwellings for more than two (2) families, by special permit from the planning board. The minimum lot area for such dwellings shall be in accordance with the applicable minimum lot area per dwelling unit. (Ord. of 8-14-1990, § 2)

5.1.3 The letting of rooms or furnishing of board to not more than four (4) persons by a resident owner of a dwelling unit or a resident family consisting of at least two (2) persons related by blood or marriage, provided no separate cooking facilities are maintained. (3-13-1973, § 4)

5.1.4 Home occupation, as defined in Section 1, by special permit from the zoning board of appeals. (4-23-1974; Ord. of 6-27-1978, § II(2); Ord. of 9-12-1989; Ord. of 8-14-1990, § 3)

5.1.5 Use of land for the primary purpose of agriculture, horticulture, floriculture, silviculture or viticulture, including the sale of produce, and wine and dairy products, provided the majority of such products for sale have been produced by the owner of the land on which the facility is located, on lots two (2) acres or more in size. No livestock shall be kept on any lot less than two (2) acres in size. All livestock shall be kept within a building, or fenced enclosure. (12-23-1969; Ord. of 6-27-1978, § III(6); Ord. of 8-14-1990, § 4)

5.1.6 Use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation. (Ord. of 6-27-1978, § III(7); Ord. of 8-14-1990, § 5)

5.1.7 Libraries, museums, art galleries and similar institutions operated by nonprofit corporations. (Ord. of 6-27-1978, § III(7))

5.1.8 Clubs, lodges or social and community center buildings, except those a chief activity of which is a gainful service or activity conducted as a business. (Ord. of 6-27-1978, § III(7))

5.1.9 Parks and playgrounds operated by governmental units or nonprofit corporations. (Ord. of 6-27-1978, § III(7))

5.1.10 Hospitals, sanitariums and similar charitable or philanthropic institutions operated by governmental units or nonprofit corporations, but excluding a correctional institution or institution for the insane. (Ord. of 6-27-1978, § III(7))

5.1.11 Nursery schools and day care facilities upon issuance of a special permit from the planning board. (Ord. of 8-14-1990, § 6)

5.1.12 A private sanitarium, rest home, shelters for the homeless or nursing home, upon issuance of a special permit from the planning board and subject to the provisions of Section 3.11. (Ord. of 6-27-1978, § III(7); Ord. of 8-14-1990, § 7)

5.1.13 Accessory uses customarily incidental to a permitted use on the same premises. Accessory buildings may be used for residential purposes in accordance with the provisions of Section 3.13. Space in a private garage may be used for the storage of

commercial vehicles of not more than one-ton capacity and may be rented to persons not residents on the premises. (Ord. of 6-27-1978, §§ II(3), III(7); Ord. of 8-14-1990, § 9)

5.1.14 Permitted sign(s) as regulated in Section 14.2 of this ordinance. (Ord. of 5-8-1979; Ord. of 8-14-1990, § 10)

5.1.15 Duly incorporated fraternities or sororities owning and occupying a dwelling maintained exclusively for members affiliated with an academic or professional college or other recognized institution of higher learning, with a special permit from the zoning board of appeals subject to the following special requirements:

(a) Off-street parking facilities shall be provided in accordance with Section 10 of this ordinance.

(b) Parking and outdoor activity areas located within forty (40) feet from any property line shall be screened so as not to be visible from adjacent lots in residential use.

(c) Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public ways, and where outdoor lighting is provided for activities after normal daylight hours, such lights shall be extinguished not later than 11:00 p.m.

(d) A sound amplification system shall not be permitted except where such system is inaudible at any property line.

(e)The planning board may recommend and the zoning board of appeals may impose additional requirements as in its judgment are necessary for the protection of the public health, safety and welfare.

(f)No permit shall be issued by the zoning board of appeals, unless and until the department of public health of the City of North Adams has approved those aspects of the proposed use which come under its jurisdiction. (3-13-1973; Ord. of 6-27-1978, §§ II(4)-(6), III(7); Ord. of 8-14-1990, § 11)

5.1.16 Any accessory use to a by-right use, whether or not on the same parcel, which is necessary in connection with scientific research and development or related production, may be authorized by special permit from the zoning board of appeals, provided the board finds that the proposed accessory use does not substantially derogate from the public good. (Ord. of 6-27-1978, § III(8); Ord. of 8-14-1990, § 12)

5.1.17 Bed and breakfasts as defined in Section 1. (Ord. of 7-26-1988; Ord. of 8-14-1990, § 13)

5.2 *Required lot area, width, frontage, yards, coverage, height.*

District	Min. Lot Area sq. ft.	Min. Lot Width ft.	Min. Lot Frontage ft.	Min. Lot Area per Dwelling Unit sq. ft.

R-1	16,000	90	90	8,000
R-IA	24,000	120	120	24,000
R-2	11,250	75	75	5,625
R-3	7,200	60	60	3,600

Minimum Yards

District	Front Yard ft.	Side Yards ft.	Rear Yard ft.	Max Bldg. Cov. %	Max. Hght. ft.
R-1	30	15	25	20	30
R-1A	35	20	35	15	30
R-2	20	10	15	25	30
R-3	10	5	8	33 1/3	35

(7-8-1969; 4-23-1974; Ord. of 8-14-1990, § 14)

SECTION 6. RURAL DISTRICTS

6.1 *Uses permitted:*

6.1.1 Uses permitted under Section 5 except those permitted under Sections 5.1.2, 5.1.12 and 5.1.16. (Ord. of 8-14-1990, § 1)

6.1.2 Hotels, motels, inns and tourist cabin establishments located on lots of not less than two (2) acres if authorized by a special permit from the zoning board of appeals provided that no such building is located within one hundred (100) feet from any street or property line, subject also to the provisions of paragraph 3.11 hereof. (Ord. No. 6-27-1978, § III(7); Ord. of 8-14-1990, § 2)

6.1.3 A portable sawmill located not less than two hundred (200) feet from any street line and not less than five hundred (500) feet from any other property line. (Ord. of 8-14-1990, § 4)

6.1.4. Use of land for the primary purpose of agriculture, horticulture, floriculture, silviculture or viticulture, including the sale of produce, and wine and dairy products, provided the majority of such products for sale have been produced by the owner of the land on which the facility is located. All livestock, including race horses, may be kept on any lot of not less than two (2) acres. All livestock shall be kept within a building, or fenced enclosure. (12-23-1969; Ord. of 8-14-1990, § 5)

6.1.5. A stand for the sale of farm and garden produce raised on the premises located not less than twenty (20) feet from the street line and for this purpose not more than two (2) signs each not exceeding four (4) square feet in area. (Ord. of 8-14-1990, § 6)

6.1.6 Restaurants, on lots of at least two (2) acres, provided that there is no substantial carry-out or delivery service, no drive-in service and no service or consumption outside a fully enclosed structure. (Ord. of 8-14-1990, § 7)

6.1.7 Dwellings consisting of three (3) or four (4) units, by special permit from the Planning Board. The minimum lot area for such dwellings shall be in accordance with the applicable minimum lot area per dwelling unit. (Ord. of 8-14-1990, § 8)

6.1.8 Reserved.

6.1.9 Accessory uses customarily incidental to a permitted use on the same premises. Accessory buildings may be used for residential purposes in accordance with the provisions of Section 3.13. Accessory uses may include the storage of commercial vehicles belonging to the resident of the premises, provided that such vehicles are kept not less than one hundred fifty (150) feet from any street line and fifty (50) feet from any other property line. (Ord. of 8-14-1990, § 9)

6.1.10 Permitted sign(s) as regulated in Section 14 of this ordinance. (Ord. of 5-8-1979; Ord. of 8-14-1990, § 9a)

6.1.11 Mobile home parks in accordance with the provisions of Section 13A. (Ord. of 8-14-1990, § 10)

6.2 *Required lot area, width, frontage, yards, coverage, height:*

District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Frontage (feet)	Minimum Lot Area per Dwelling Unit* (square feet)
RU-1	40,000	125	125	20,000

Minimum Yards

District	Front Yard (feet)	Side Yards (feet)	Rear Yard (feet)	Maximum Building Coverage (percent)	Maximum Height (feet)
RU-1	40	20	35	15	30

*Increase to 40,000 square feet if such dwellings will not be serviced by public sewer. (4-23-1974: Ord. of 8-14-1990, § 11)

6.3 *Flexible Residential Development (FRD).*

6.3.1 *Purpose:* In order to provide for the public interest by the preservation of open space in perpetuity, to promote variations in residential housing development patterns which allow for development more harmonious with natural features and city growth policies than traditional residential development, to promote the maximum possible protection of

open space, visual quality and aquifer and other natural resource protection and to encourage the efficient provision of necessary utilities and community services, the following regulations are established for Flexible Residential Development (FRD) within the city. In making any and all determinations under this ordinance the Planning Board shall always compare the impact of a FRD with potential conventional development, and may approve a FRD only if the proposal is equal or superior to a conventional development.

6.3.2 *Applicability:* FRD shall be allowed within Rural and Residential Districts only, subject to the requirements of this ordinance for such district, and in accordance with the additional requirements specified herein.

6.3.3 *General requirements:*

(a) Any parcel of land located within a Rural and Residential District containing land area at least five (5) times the minimum lot area requirement may be considered for an FRD subject to a special permit issued by the Planning Board.

(b) After an FRD application has been submitted, no utility installations, no ditching, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and approved as provided by these regulations.

(c) No FRD shall be approved within an established single-family residential neighborhood if the Planning Board determines that such land use would have a detrimental effect upon the surrounding property.

(d) It shall be the responsibility of an applicant for an FRD special permit to demonstrate to the Planning Board that this form of land development will be as or more appropriate than conventional patterns of residential subdivision development for the particular site being considered. The conventional subdivision pattern and the FRD shall each be evidenced by the submission of a preliminary sketch plan showing the total number of lots which can be created and the road layout.

(e) All dwellings to be built on the site shall be located at least one hundred (100) feet from any public ways in existence at the time of submission of the FRD proposal to the Planning Board.

6.3.4 *Permitted uses:*

(a) Detached one- or two-family dwellings, including any accessory uses, as permitted in the Zoning Ordinance for the district in which the land lies.

(b) Uses permitted within the common open space as described in these regulations.

6.3.5 *Minimum requirements:*

(a) *Reduction of dimensional requirements:* The Planning Board may grant a reduction in the dimensional requirements of the zoning regulations listed in Sections 5.2 and 6.2 of these ordinances for all residential lots in a FRD, if the Planning Board finds that such reduction will result in better design and improved protection of natural and scenic resources and will otherwise comply with these regulations, provided that the percentage of the reduction allowed under this ordinance shall not be greater than one and five-tenths (1.5) times the percentage of the total FRD which is to be set aside for common open space. [If thirty percent (30%) of the land area is to be set aside for common open space, the Planning Board may grant up to a forty-five-percent reduction in the minimum lot size and lot frontage requirements]. In no instance shall any dimensional requirement be reduced to a figure less than the minimum requirement noted in the table below.

Table of Minimum Requirements

Minimum lot area*	10,000 square feet
Minimum lot frontage	50 feet
Minimum lot width	50 feet
Minimum front yard	20 feet
Minimum side yard	10 feet
Minimum rear yard	15 feet
Minimum lot area	3,600 square feet per dwelling unit
Maximum building coverage	35%
Maximum building height	Requirement for zoning district

*Exclusive of land within wetlands.

(b) *Development standards:* Prior to the issuance a special permit for an FRD the Planning Board shall find, and the applicant shall submit the information necessary to demonstrate, that the following standards have been met:

(1) The development will not cause unreasonable traffic congestion or unsafe conditions both within and outside of the development and will comply with city standards for parking, access, road design and construction.

(2) The development will provide for and maintain convenient and safe emergency vehicle access to all buildings and structures at all times.

(3) The nature of the soils and subsoils shall be suited for the intended purposes. This determination shall focus upon, but shall not be limited to, the locations, design and construction of roadways, buildings, septic systems and surface water drainage systems. Soil borings or test pits may be made to provide information on soil texture, color, percolation rates and depth to the ground water table at its maximum

elevation.

(4) Anticipated stormwater runoff from the site shall not exceed peak runoff from the site prior to development. The applicant shall submit formal drainage calculations by a registered professional engineer for this purpose.

(5) Proper soil erosion and sedimentation control measures shall be employed to minimize sedimentation and siltation of existing surface water bodies and wetlands. In areas where the land slopes downward towards any surface water body or freshwater wetlands, proposed filing, cutting, clearing or grading shall be minimized and all such development activities shall be carried out in such a way as to retain the natural vegetation and topography wherever possible. The Planning Board may require that an erosion and sedimentation control plan be submitted if significant erosion is anticipated in slope areas.

(6) The site design shall preserve and, where possible, enhance the natural features of the property, including scenic views, by adapting the location and placement of structures and ways to the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance of the landscape and surrounding properties.

(7) All streets, sewers, water lines, drainage facilities and utilities shall be designed and constructed in compliance with the Rules and Regulations Governing the Subdivision of Land in effect at the time of application, insofar as they are applicable. Exceptions to the subdivision regulations may be authorized by the Planning Board in granting a special permit hereunder, provided that the Board determines such exceptions are in the public interest and are not inconsistent with the purposes of Section 6.3.1.

(8) The development shall comply with the provisions of 310 CMR 15.00 of the State Environmental Code (Title 5) and the City of North Adams Health Regulations, with regard to on-site wastewater disposal. On-site sewage disposal systems shall be located so as to minimize the impact on surface and subsurface water resources. In evaluating this issue, the Planning Board shall take into consideration both the direction of groundwater flow and the distance between any such system and a water supply or other water resource. On-site disposal systems shall not be located within one hundred fifty (150) feet from any wetland or surface water body. In no instance shall a variance be granted from Title 5 of the State Environmental Code or North Adams Board of Health Regulations in regard to depth to groundwater or distance to wetlands, buildings and water supply wells.

6.3.6 *Open space use and design standards:*

(a) Within an FRD, a minimum of two (2) acres or thirty percent (30%) of the total land

area, which ever is less, shall be devoted to common open space. The common open space shall not include land set aside for roads and/or parking uses. No more than fifty percent (50%) of the common open space may contain land considered as wetland resource areas, other than "isolated lands subject to flooding," as defined in the regulations (310 CMR 10.00) promulgated pursuant to Massachusetts General Laws Chapter 131, Section 40 (Wetlands Protection Act).

(b) The common open space shall be designed and maintained in accordance with the following standards:

(1) Naturally existing woods, fields, meadows and wetlands shall be maintained and improved in accordance with good conservation practices.

(2) Common open space shall be planned as large, contiguous parcels whenever possible. Strips or narrow parcels of common open space shall be permitted only when necessary for access or as vegetated buffers along the site's perimeter.

(3) Common open space may be in more than one (1) parcel, provided that the size, shape and location of such parcels are suitable for the designated uses.

(4) Common open space may be used for active recreation, passive recreation, conservation, forestry, agriculture, natural buffers, structures necessary to approved uses, utilities and other facilities necessary for the convenience and enjoyment of the residents, subject to approval by the Planning Board. Up to twenty-five percent (25%) of the common open space may be developed for active recreation.

(5) There shall be a minimum of fifty (50) feet between any common open space and all structures.

(6) Use of common open space shall in all instances require approval by the Planning Board, and all structural improvements and impervious surfaces must be shown on the definitive FRD plan.

(7) In cases where the open space has been environmentally damaged prior to the completion of the development as a result of soil removal, harvesting of trees or other natural features, refuse disposal or any other activity deemed inappropriate with proposed uses of the common open space, the Planning Board may require the developer to restore or improve the condition and appearance of the common open space, and may require the posting of a bond or other appropriate form of performance guaranty to ensure such restoration or improvement.

(8) Up to fifty percent (50%) of the land area proposed to be set aside as common open space may be located on a different parcel of land, but only if the Planning Board determines, after consultation with, and the approval of, the Conservation Commission, that such other parcel of land is exceptionally valuable to the city and

its residents for open space, recreation or natural resource protection and that such value more than offsets the presumed benefits of having such common open space adjacent to the proposed residential development. Nonadjacent common open space is to be conveyed only to the City of North Adams for park or open space use.

6.3.7 *Common open space ownership and management.*

(a) Common open space in an FRD shall be conveyed to: (1) the City of North Adams for park or open space use; (2) a nonprofit corporation, the principal purpose of which is the conservation of open space; or (3) to a corporation or trust owned or to be owned by the owners of lots within the development. It shall be the Planning Board's decision as to which of the above ownership options shall be used. If a corporation or trust owned by the owners of lots is utilized, ownership thereof shall pass with the conveyance of the lots. In any case, where such land is not conveyed to the city, a perpetual restriction, running to and enforceable by the city, shall be recorded providing that such land shall be retained in perpetuity in an open and natural state and shall not be built upon for residential use or developed for accessory uses such as parking or roadways.

(b) If the common open space is not to be conveyed to the city, then the applicant shall include as part of the road covenant a provision that the common open space will be deeded as approved by the Planning Board. In addition, the road covenant shall not be released until proof of transfer of ownership has been provided to the Planning Board.

(c) If the common open space is not to be conveyed to the city, the application for an FRD special permit must include a description of how and when the common open space will be preserved in perpetuity to standards satisfactory to the Planning Board and to the City Solicitor. The applicant shall also provide as part of the common open space proposal an agreement empowering the city to perform maintenance of the common open space in the event of failure to comply with the program included in the application pursuant to the preceding sentence providing that, if the city is required to perform any maintenance work, the owners of lots within the FRD shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid.

6.3.8 *Review procedures:* All applications for FRD's shall be submitted in conformity with the requirements and procedures for submission and review under the Subdivision Rules and Regulations of the Planning Board and the additional requirements outlined in the Planning Board's Review Procedure for Flexible Residential Developments.

6.3.9 *Approvals:*

(a) As a condition of approval hereunder, the Planning Board may require changes in the proposed development plans and may impose additional conditions, limitations and safeguards as it may deem appropriate to ensure compliance with the purposes of this ordinance.

(b) Notwithstanding any provision to the contrary, any special permit granted by the Planning Board for an FRD shall become void within two (2) years from the date of issue, which two (2) years shall not include time required to pursue or await determination of an appeal referred to in Massachusetts General Laws, Chapter 40A, Section 6, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for a good cause. All open space shall be dedicated at the time the permit holder proceeds with construction under a building permit. (6-10-1969; 4-28-1974; Ord. of 6-27-1978; Ord. of 6-11-1991)

SECTION 6A. AFFORDABLE HOUSING DISTRICT

6A.1 *Uses permitted:*

6A.1.1 Mobile home parks. (Ord. of 7-26-1988)

6A.1.2 Single-family or multifamily dwellings developed or subsidized through programs offered by the federal, state, county or municipal government. (Ord. of 7-26-1988)

6A.1.3 Use of land for the primary purpose of agriculture, horticulture, floriculture, silviculture or viticulture, including the sale of produce, and wine and dairy products, provided that the majority of such products for sale have been produced by the owner of the land on which the facility is located, on lots two (2) acres or more in size. No livestock shall be kept on any lot less than two (2) acres in size. (Ord. of 7-26-1988; Ord. of 8-14-1990, § 12)

6A.1.4 Clubs, lodges or social and community center buildings, except those a chief activity of which is a gainful service or activity conducted as a business. (Ord. of 7-26-1988)

6A.1.5 Parks and playgrounds operated by governmental units or nonprofit corporations. (Ord. of 7-26-1988)

6A.1.6 Accessory uses customarily incidental to a permitted use on the same premises. No accessory buildings shall be used for residence purposes except upon the issuance of a special permit by the Zoning Board of Appeals. (Ord. of 7-26-1988)

6A.1.7 Permitted sign(s) as regulated in Section 14 of this ordinance. (Ord. of 7-26-1988)

6A.2 *Required lot area, width, frontage, yards, coverage, height:*

District	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Minimum Lot Frontage (feet)	Minimum Lot Area per Dwelling Unit* (square feet)
AH-1	16,000(a)	90(a)	90(a)	8,000

	Minimum Yards				
District	**Front Yard (feet)**	**Side Yards (feet)**	**Rear Yard (feet)**	**Maximum Building Coverage (percent)**	**Maximum Height (feet)**
AH-1	30(a)	15(a)	25(a)	20(a)	30(a)

(a) Mobile home parks shall meet the requirements of Section 13A. (Ord. of 7-26-1988; Ord. of 8-14-1990, § 13)

SECTION 7. COMMERCIAL DISTRICTS

7.1 *Uses permitted in CA District:*

7.1.1 Uses permitted in a residential district. (Ord. of 8-14-1990, § 1)

7.1.2 Professional office and business services. (Ord. of 8-14-1990, § 2)

7.1.3 Individual retail sales and services with the exception of those uses listed in Section 7.2.2 through 7.2.6 and those listed in Sections 7.3.4 through 7.3.8. (4-26-1966; Ord. of 8-14-1990, § 3)

7.1.4 Restaurants, but excluding taverns.

7.1.5 Retail package liquor stores.

7.1.6 Cleaning and laundering agencies and coin-operated laundries. (Ord. of 8-14-1990, § 4)

7.1.7 Funeral homes.

7.1.8 Automobile filling stations including servicing and minor repairs only, defined as tune-ups, oil and fluid changes, and emergency motor vehicle services of the type normally associated with automobile filling stations. (Ord. of 8-14-1990, § 5)

7.1.9 Research, experimental and testing laboratories upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 6)

7.1.10 Accessory uses customarily incidental to a permitted use, including private garages for the storage of motor vehicles as accessories to a permitted use only.

7.1.11 Signs pertaining to a permitted business on the premises only in accordance with the provisions of Section 14.(Ord. of 8-14-1990, § 7)

7.1.12 Artist studios as defined in Section 1. (Ord. of 8-14-1990, § 8)

7.1.13 Financial institutions. (Ord. of 8-14-1990, § 9)

7.2 *Uses permitted in CB Districts:*

7.2.1 Uses permitted in a residential and CA district, excluding Section 5.1.1. (Ord. of 8-14-1990, § 10)

7.2.2 Theaters for indoor motion-picture projections or for indoor dramatic or musical productions, taverns, upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 11)

7.2.3 Assembly halls, dance halls, billiard and pool parlors, bowling alleys, skating rinks, indoor tennis, racquetball, volleyball and squash courts, indoor athletic and exercise facilities and similar uses. (Ord. of 8-14-1990, § 12)

7.2.4 Public parking areas, whether publicly or privately owned.

7.2.5 Public garages, including general automobile repairing, automobile, trailer, contractor's and farm equipment salesrooms or outdoor sales areas.

7.2.6 Newspaper offices. (Ord. of 8-14-1990, § 13)

7.2.7 Accessory uses customarily incidental to a permitted use.

7.2.8 Signs pertaining to a permitted business on the premises only in accordance with the provisions of Section 14.(Ord. of 8-14-1990, § 14)

7.2.9 Shopping centers, provided that the total gross floor area is not greater than ten thousand (10,000) square feet. (Ord. of 8-14-1990, § 15)

7.2.10 Hotels, inns upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 16)

7.3 *Uses permitted in CC Districts:*

7.3.1 Uses permitted in a residential, CA or CB district. (Ord. of 8-14-1990, § 17)

7.3.2 Shopping center, upon issuance of a special permit from the Planning Board, provided that the total gross floor area is not greater than thirty thousand (30,000) square feet. (Ord. of 8-14-1990, § 18)

7.3.3 Reserved. (4-26-1966)

7.3.4 Stone and monument works.

7.3.5 Research, experimental and testing laboratories upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 19)

7.3.6 Cold storage and ice plants, steam laundries.

7.3.7 Building materials and contractor's equipment.

7.3.8 Automobile body repair shops, tire recapping establishments.

7.3.9 Accessory uses usually incidental to the principal use, including garages, storage buildings, and power plants causing no objectionable smoke or odors noticeable off the premises. Accessory uses may include employees' recreation facilities, clinics, and commissary stores and retail stores selling products of the person, firm or corporation occupying the premises. (Ord. of 8-14-1990, § 21)

7.3.10 Signs pertaining to a permitted business on the premises only in accordance with the provisions of Section 14.(Ord. of 8-14-1990, § 22)

7.4. *Required lot area, width, frontage, yards, coverage, height:*

District	Minimum Lot Area (square (feet)	Minimum Lot Width (feet)	Minimum Lot Frontage (feet)	Minimum Lot Area per Dwelling Unit (square feet)
CA-1	7,500	75	75	3,750
CA-2	5,000	50	50	2,500
CB-1	5,000	50	50	3,600
CB-2	5,000	50	50	3,600
CC-1	20,000	100	100	
CC-2	10,000	70	70	
CP-I	14,700	90	90	3,600

Minimum Yards

District	Front Yard (feet)	Side Yards (feet)	Rear Yard (feet)	Maximum Building Coverage (percent)	Maximum Height (feet)
CA-1	20	12	15	40	30
CA-2	10	6	12	50	30
CB-1	5	12	12	50	40
CB-2	0	0	12	80	50
CC-1	30	20	20	25	40
CC-2	15	10	12	35	40
CP-I	10	6	12	33 1/3	35

(Ord. of 8-14-1990, § 23; Ord. of 11-26-1991)

7.4.1 In CB-1 Districts, each lot shall have at least one (1) side yard twelve (12) feet in width.

7.4.2 In CB-1 and CB-2 Districts, where no side yard is required, the building shall be located either on the lot line or not less than three (3) feet from it.

7.4.3 In CB-2 Districts, a building not more than twenty (20) feet in height above the curb may occupy the entire rear yard.

7.4.4 *Buffer areas.* In cases when the site abuts a residential district a buffer area shall be provided. Such buffer shall not be less than twenty-five (25) feet in width and planted with evergreens in no fewer than two (2) rows no further than fifteen (15) feet apart along each row, staggered to provide maximum screening, and using trees not less than five (5) feet in height at time of planting. The Building Inspector may require additional buffer width or area or more mature plantings if unusual conditions demand more extensive screening. Such buffer areas are not required for the frontage on a road. The approved planting plan must be effectuated before a certificate of occupancy is issued. If construction is completed during a nonplanting season, a bond or certified check for an amount to cover planting costs, as determined by the City Engineer, shall be posted with the Treasurer of the City of North Adams. (4-23-1974; Ord. of 7-26-1988)

7.5 *Uses permitted in CP-1 Districts:*

7.5.1 Artistic studio or shop for custom work or making of articles.

7.5.2 Professional offices housing members of a recognized profession such as doctors, lawyers, dentists, architects, civil engineers, optical services, podiatrists, chiropractor.

7.5.3 Libraries. (Ord. of 7-26-1988)

7.5.4 Signs pertaining to a permitted business on the premises only in accordance with the provisions of Section 14.(Ord. of 8-14-1990, § 24)

7.5.5 One- and two-family dwellings. (Ord. of 11-26-1991)

7.5.6 Dwellings for more than two (2) families, by special permit from the Planning Board. The minimum lot area for such dwellings shall be in accordance with the applicable minimum lot area per dwelling unit. (Ord. of 11-26-1991)

7.5.7 The letting of rooms or furnishing of board to not more than four (4) family persons by a resident owner of a dwelling unit or a resident family consisting of at least two (2) persons, related by blood or marriage, provided that no separate cooking facilities are maintained. (Ord. of 11-26-1991)

7.5.8 Home occupation, as defined in Section 1, by special permit from the Zoning Board of Appeals. (Ord. of 11-26-1991)

SECTION 8. INDUSTRIAL DISTRICTS

8.1 Uses permitted in an I-1 District.

8.1.1 Any nonresidential use permitted in a district previously listed upon issuance of a special permit from the Planning Board. (8-22-1972; Ord. of 7-26-1988; Ord. of 8-14-1990, § 1)

8.1.1.1 Accessory residential use in conjunction with artists' studios in mill space/industrial properties in excess of 50,000 square feet subject to a special permit issued by the Planning Board provided that:

(a) There shall be no more than one residential use per 1,000 square feet of gross studio space;

(b) A dedicated bathroom with water closet, sink and shower and a kitchen containing sink, refrigerator and stove shall be provided for each proposed residential use. Any new construction of studio spaces shall conform to commercial code. Adequate heat and ventilation shall be provided for each studio;

(c) Trash and garbage removal must be provided for;

(d) New construction for studio spaces shall conform to commercial building codes, including fire alarm, fire protection, egress, etc;.

(e) Parking shall be as determined by the Planning Board with a minimum of one parking space per studio;

(f) There shall be a maximum of 50 studio units per building;

(g) Restrictions as to odor, noise and deliveries shall be interpreted to commercial as opposed to residential standards;

(h) Building owners and/or building committees shall determine the qualifications of the artists using the studio spaces for residential use and the limitations contained herein shall be included in any lease or sales contract with the resident artist. (Ord. of 9-10-2002; Ord. of 2-10-2004; Ord. of 5-24-2005)

8.1.2 The manufacturing, processing, printing, packaging, finishing or assembling of components or goods. (Ord. of 8-14-1990, § 2)

8.1.3 Truck and freight terminals and warehouses together with the right to service, maintain and repair motor vehicles incidental to the aforesaid use.

8.1.4 Plumbing, heating, general contracting, electrical, industrial, and hardware buildings and uses, and may include sales areas which are used to display and sell products manufactured on the premises or as an accessory function of the primary use of the premises.

8.1.5 Yards for storage of and sales of lumber, fuel, fertilizer and building materials, and salvage storing and handling provided that all operations are carried on within a building or within a solid enclosure or a comparable landscape screen, not less than eight feet high, upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 3)

8.1.6 Public utilities. (Ord. of 8-14-1990, § 4)

8.1.7 Publishing, data processing and computer software manufacturing including associated

offices and warehousing/ distribution facilities. (Ord. of 8-14-1990, § 5)

8.1.8 Bulk storage of petroleum products upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 6)

8.1.9Manufacturing and/or storage of alcohol, plastics and chemicals excluding sulphuric, nitric and hydrochloric acids upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 7)

8.1.10 Bulk storage of cement upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 8)

8.1.11 Manufacturing of bricks, cement products, tile and terra cotta upon issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 9)

8.1.12 Research and development facilities. (Ord. of 8-14-1990, § 10)

8.1.13 Distribution facilities. (Ord. of 8-14-1990, § 11)

8.1.14 Professional office and business services. (Ord. of 8-14-1990, § 12)

8.1.15 Solid waste facilities to include recycling facilities, compost facilities, transfer stations, landfills and resource recovery facilities with the issuance of a special permit from the Planning Board. (Ord. of 8-14-1990, § 13)

8.1.16 Accessory buildings and uses normally incidental to the principal use, including garages, storage buildings and power plants, employees' recreation facilities, commissary and clinical facilities. (Ord. of 8-14-1990, § 14)

8.1.17 Signs pertaining to uses on the premises in accordance with the provisions of Section 14. (Ord. of 8-14-1990, § 15)

8.1.18 Shopping centers in excess of 30,000 square feet upon issuance of a special permit from the Planning Board. (Ord. of 11-10-2009)

8.2 *Uses permitted in an I-2 District.*

8.2.1 Any uses permitted in the I-1 District, Section 8.1, excluding Sections 8.1.8, 8.1.9, 8.1.10, and 8.1.11. (Ord. of 8-14-1990, § 16)

8.3 *Uses permitted in an I-P District.*

8.3.1 The manufacturing, processing, printing, packaging, finishing or assembling of components or goods. (Ord. of 8-14-1990, -§ 18)

8.3.2 Research and development facilities. (Ord. of 8-14-1990, § 18)

8.3.3 Research, experimental and testing laboratories upon the issuance of a special permit from

the Planning Board. (Ord. of 8-14-1990, § 18)

8.3.4 Distribution facilities. (Ord. of 8-14-1990, § 18)

8.3.5 Newspaper offices. (Ord. of 8-14-1990, § 18)

8.3.6 Warehouses and truck and freight terminals together with the right to service, maintain and repair motor vehicles incidental to the aforesaid. (Ord. of 8-14-1990, § 18)

8.3.7 Publishing, data processing and computer software manufacturing and distribution. (Ord. of 8-14-1990, § 18)

8.3.8 Retail sales provided that

(a) The products are manufactured on site;

(b) It is not the primary retail outlet; and

(c) Such sales are incidental to the primary use. (Ord. of 8-14-1990, § 18)

8.3.9 Professional office and business services. (Ord. of 8-14-1990, § 18)

8.3.10 Accessory uses, normally incidental to the principal use, including garages, storage buildings, outside storage, power plants, employees' recreational facilities, commissary and clinical facilities provided that all operations are carried on within a building or within a solid enclosure or comparable landscape screen, not less than eight (8) feet high, upon issuance of a special permit from the planning board. (Ord. of 8-14-1990, § 18)

8.3.11 Signs pertaining to the permitted business in accordance with the provisions of Section 14. (Ord. of 8-14-1990, § 18)

8.4. *Required lot area, width, frontage, yards, coverage, height:*

District	Min. Lot Area sq. ft.	Min. Lot Width ft.	Min. Lot Frontage ft.	Min. Lot Area per Dwelling Unit sq. ft.
I-1	40,000	125	125	
I-2	10,000	70	70	
I-P	40,000	80		

Minimum Yards

District	Front Yard ft.	Side Yards ft.	Rear Yard ft.	Max. Bldg. Cov. %	Max. Hght. ft.
I-1	40	30	25	30	40
I-2	15	10	10	50	40
I-P	-	Note (1)	-	40	40(2)

(1) Minimum front, side or rear yard shall be fifty (50) feet from any exterior property line of the industrial park and thirty (30) feet from any interior property line.

(2) Buildings higher than forty (40) feet are permitted with a special permit from the planning board. (Ord. of 8-14-1990, § 19)

SECTION 9. AIRPORT DISTRICTS

9.1 *Uses permitted:*

9.1.1 An airport operated by the City of North Adams including landing facilities, hangar and storage space, and aircraft maintenance and construction shops.

9.1.2 Any use permitted by Section 8, excluding 8.1.7, provided that site development plans are submitted to the planning board and approved under special permit procedure. The site development plan shall show location of buildings and improvements, existing and proposed grading and landscaping, and proposed utilities. (4-23-74; Ord. of 6-27-1978, §§ II(10), III(ll))

9.2 *Minimum required lot areas, width, yards and maximum permitted building coverage, height:*

Min. Lot Area District	Min. Lot Width sq. ft	Min.Lot Area per Family Unit ft.	Minimum Yards Front Yard sq.ft	Side Each ft.	Rear Yard ft.	Max. Bldg Cov ft.	Max. Height %
AP-1 (4-23-74)	40,000	125	40	25	25	30	40

SECTION 9A. WIRELESS COMMUNICATION DISTRICTS.

9A.1 *Purpose:* It is the purpose of this ordinance to minimize the visual and environmental impacts of personal wireless facilities on the scenic, historic, environmental, natural or man-made resources of the city while allowing for adequate personal wireless services within its boundaries. (Ord. of 12-22-1998)

9A.2 *Definition:* For the purposes of this section, the following definitions shall apply:

9A.2.1 *Above ground level (AGL):* A measurement of height from the natural undisturbed grade of a site to the highest point of the proposed structure.

9A.2.2 *Antenna*: The surface from which wireless radio signals are sent and received by a personal wireless facility.

9A.2.3 *Camouflaged*: A personal wireless service facility that is disguised, hidden, part of an

existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged."

9A.2.4 *Carrier*: A company which provides wireless services.

9A.2.5 *Collocation*: The use of a single mount on the ground by more than one carrier (vertical collocation) and/or the placement of several mounts on an existing building or structure by more than one carrier.

9A.2.6 *Cross-polarized antenna*: A low mount that has three panels flush mounted or attached very close to the shaft.

9A.2.7 *Distance*: The measurement of length in a horizontal plane.

9A.2.8 *Elevation*: The measurement of height above sea level.

9A.2.9 *EA*: An "environmental assessment" is the document required by the Federal Communications Commission and the National Environmental Policy Act when a personal wireless service facility is placed in certain designated areas.

9A.2.10 *Equipment shelter*: An enclosed structure, cabinet, shed or box at/or near the base of the mount within which are housed batteries and/or electrical equipment.

9A.2.11 *FAA*: Shall mean the Federal Aviation Administration.

9A.2.12 *Fall zone*: The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice or tooling) or collapsing material.

9A.2.13 *FCC*: Shall mean the Federal Communications Commission.

9A.2.14 *Functionally equivalent services*: Cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio and paging shall all be considered functionally equivalent for the purposes of the ordinance.

9A.2.15 *Guyed tower:* A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

9A.2.16 *Lattice tower*: A type of mount which is self-supporting having multiple legs and cross bracing of structural steel.

9A.2.17 *Licensed carrier:* A company authorized by the FCC to construct and/or operate a commercial personal wireless services system.

9A.2.18 *Monopole*: The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform for panel antennas arrayed at the top.

9A.2.19 *Mount*: The structure or surface upon which antennas are mounted. These include but are not limited to:

1. Roof mount: mounted on the roof of a building.
2. Side mounted: mounted on the side of a building.
3. Ground mounted: mounted on the ground.
4. Structure mounted: Mounted on a structure other than a building.

9A.2.20 *Nonresidential structure*: Any structure other than private houses or apartments.

9A.2.21 *Omnidirectional antenna*: Commonly known as a "whip antenna," it is a thin rod that beams and receives a signal in all directions.

9A.2.22 *Panel antenna*: A flat surface antenna usually developed in multiples.

9A.2.23 *Personal wireless service facility*: A facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996.

9A.2.24 *Personal wireless services*: The types of services regulated by this ordinance.

9A.2.25 *Radio frequency (RF) engineer*: An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

9A.2.26 *Radio frequency radiation (RFR)*: The emissions from personal wireless service facilities.

9A.2.27 *Security barrier*: A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

9A.2.28 *Separation*: The distance between one carrier's array of antennas and another carrier's array. (Ord. of 12-22-1998)

9A.3 *Regulations:*

9A.3.1 *Use*: A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

9A.3.1.1 *Existing structure*: A personal wireless facility may locate on an existing guyed tower, monopole, electric utility transmission tower, fire tower or water tower, provided the installation of the new facility does not increase the height of the existing structure except as provided in Section 9A.3.3 contained herein. Such installations shall require a building permit and site plan approval by the Planning Board.

9A.3.1.2 *New construction*: A personal wireless facility involving construction of one or more ground or building mounts shall require a special permit. Such facilities may locate by special

permit in all zoning districts within the city, provided that the proposed use complies with the height and setback requirements of Section 9A.3.3, all of the special permit regulations set forth in Section 9A.4 of this ordinance and a building permit is obtained.

9A.3.2 *Location*: Applicants seeking approval for personal wireless service facilities will comply with the following:

9A.3.2.1 If feasible, personal wireless service facilities shall be located on existing structures, included but not limited to buildings, water towers, existing telecommunications facilities, utility towers and related facilities, provided that such installations preserve the character and integrity of those structures. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. The applicant shall provide, in writing, that they have investigated all other locations of existing structures at other possible sites and provide documentation as to why their use is not satisfactory.

9A.3.2.2 If the applicant successfully demonstrates to the Planning Board that it is not feasible to locate on an existing structure, the personal wireless service facility shall be so designed as to be camouflaged to the greatest extent possible. This camouflage shall include but is not limited to the use of compatible building materials and colors, screening, landscaping, placement within tree stands or any other device directed by the Planning Board.

9A.3.2.3 The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or special permit.

9A.3.3 *Dimensional Requirements*: Personal wireless service facilities shall comply with the following requirements:

9A.3.3.1 *Height, general:* Regardless of the type of mount, personal wireless service facilities shall be no higher than 10 feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of the personal wireless service facility shall not exceed by more than 10 feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged, such as within a flagpole, steeple, chimney or similar structure. Personal wireless service facilities may locate on a building that is legally nonconforming, provided that the facilities do not project above the existing building height.

9A.3.3.2 *Height, ground-mounted facilities*: Ground-mounted personal wireless service facilities shall not project higher than 10 feet above the average building height, or, if there are no buildings within 300 feet, these facilities shall not project higher than 10 feet above the average tree canopy height measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the property or

planted as required for compliance.

9A.3.3.3 *Height, side- and/or roof-mounted facilities*:

a. Side- and/or roof-mounted personal wireless service facilities shall not project more than 10 feet above the height of the existing building nor project more than 10 feet above the height limit of the zoning district within which the facility is to be located.

b. Personal wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the highest point of the existing building.

9A.3.3.4 *Height, existing structures*: New antennas located on any of the following structures existing on the effective date of this ordinance shall be exempt from the height restrictions of this ordinance, provided that there is no increase in the height of the existing structure as a result of the installation of a personal wireless facility: water towers, guyed towers, lattice towers, fire towers and monopoles.

9A.3.3.5 *Height, existing utility structures*: New antennas located on any of the following structures shall be exempt from the height restrictions of this ordinance, provided that there is no more than a twenty-foot increase in the height of the existing structure as a result of the installation of a personal wireless facility: electric transmission and distribution towers or similar existing utility structures. This exemption shall not apply in Historic Districts, within 300 feet of the right-of-way of any scenic roadway or in any designated scenic viewsheds.

9A.3.3.6 *Setbacks*: All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

a. In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless facility to any property line, road, habitable dwelling, business or institutional use or public recreational area shall be 125% of the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a fall zone.

b. In the event that an existing structure is proposed as a mount for the personal wireless facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of preexisting nonconforming structures, personal wireless facilities and their equipment shelters shall not increase any nonconformities, except as provided in Section 9A.3.3.1 contained herein.

9A.3.3.7 *Flexibility*: In reviewing a special permit application for a personal wireless facility, the Planning Board may reduce the required fall zone and/or setback distance by as much as 25% of the required distance, if it finds that a substantially better design will result

from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use. (Ord. of 12-22-1998)

9A.4 *Special Permit Regulations*: All personal wireless service facilities shall comply with the performance standards contained in this section.

9A.4.1 *Design standards:*

9A.4.1.1 *Visibility/camouflage*: Personal wireless service facilities shall be camouflaged as follows:

9A.4.1.1.a. *Camouflage by existing buildings or structures:*

1. When a personal wireless service facility extends above the roof height of the building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on a building's silhouette.

2. Personal wireless service facilities which are side mounted shall blend with the existing building's architecture and, if over five feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

9A.4.1.1.b. *Camouflage by vegetation:* If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions. The facility shall include both equipment shelter(s) and antenna.

9A.4.1.1.c. *Color*:

1. Personal wireless service facilities which are side mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

2. To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted a light gray or light blue hue which blends with the sky and clouds.

9A.4.1.2 *Equipment shelters:* Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

a. Equipment shelters shall be located in underground vaults; or

b. Equipment shelters shall be designed consistent with traditional New England architectural styles and materials; or

c. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height to the proposed building, and/or a wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

9A.4.1.3 *Lighting and signage:*

9A.4.1.3.a. Lighting of equipment structures and any other facilities on the site shall be shielded from abutting properties. There shall be a total cut off of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 30.0 initial footcandles when measured at grade.

9A.4.1.3.b. Signs shall be limited to those needed to identify the property and the owner and to warn of any danger. All signs shall comply with the requirements of Section 14 of the City's Zoning Ordinance regarding signs.

9A.4.1.3.c. A security barrier shall surround all ground-mounted personal wireless service facilities.

9A.4.1.4 *Historic buildings and districts:*

9A.4.1.4.a. Any personal wireless service facility located on or within an historic structure shall not alter the character-defining features, distinctive construction methods or original historic materials of the building.

9A.4.1.4.b. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible. Approval of the North Adams Historical Commission shall be required prior to any alterations being performed.

9A.4.1.4.c. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features or shall be located so that they are not visible from public roads and viewing areas within the district.

9A.4.1.5 *Scenic landscapes and vistas:*

9A.4.1.5.a. In order to minimize the visual impact on scenic locations, any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the City shall not exceed the height of the vegetation at the proposed location.

9A.4.2 *Environmental standards:*

9A.4.2.1 Personal wireless service facilities shall not be located in wetlands, floodplains or floodplain districts and disturbance to wetland buffer areas shall be minimized.

9A.4.2.2 No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be stored on site, there shall be provisions for the full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials used at the site.

9A.4.2.3 Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess 65 dB at the property line.

9A.4.2.4 Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess 65 dB at ground level at the base of the building closest to the antenna.

9A.4.3 *Safety standards:*

9A.4.3.1 All equipment proposed for a personal wireless service facility shall be authorized per the latest published FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation. (Ord. of 12-22-1998)

9A.5 *Application procedures:*

9A.5.1 *Special permit granting authority:* The Planning Board shall be the special permit granting authority for purposes of this section.

9A.5.2 *Preapplication conference:* Prior to the submission of an application for a special permit to the Planning Board under this regulation, the applicant is required to meet with the Building Inspector and Community Development Office to discuss the proposed personal wireless service facility in general terms and to clarify the filing requirements.

9A.5.3 *Preapplication filing requirements:* The purpose of the conference is to inform the Planning Board as to the preliminary nature of the proposed personal wireless service facility. As such, no formal filings are required for the preapplication conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the location of the proposed facility, as well as its scale and overall design.

9A.5.4 *Application filing requirements:* In addition to the requirements of Section 3D of the Zoning Ordinances for the City of North Adams, the following shall be included as part of the site plan approval for personal wireless service facilities.

9A.5.4.1 *General filing requirements*: The following shall be included with the application for a special permit for all personal wireless service facilities:

a. Name, address and telephone number of applicant and any coapplicants as well as any agents for the applicants or coapplicants.

b. Coapplicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.

c. A licensed carrier shall be an applicant or a coapplicant.

d. Original signatures for the applicant and all coapplicants applying for the special permit. If the applicant or coapplicants will be represented by an agent, original signatures authorizing the agent to represent the applicant and/or coapplicants. Photo-reproductions of signatures will not be accepted.

e. A certificate of insurability of the applicant, covering destruction from a tower failure, at the time of filing.

9A.5.4.2 *Location filing requirements*: The applicant shall meet with the Building Inspector and the Office of Community Development to finalize all required information prior to applying to appear before the Planning Board for a public hearing. The following shall be included with the application for a special permit for all personal wireless service facilities:

a. Identify the subject property by including the name of the locality, name of the street or nearest streets and street address, if any.

b. Tax map and parcel number of the subject property.

c. Zoning district designation for the subject property. A copy of the city Zoning Map with the parcel identified will meet this requirement.

d. A line map to scale showing the lot lines of the subject property and all properties within 300 feet.

e. A city-wide map showing the location of any other existing personal wireless service facilities.

f. A city-wide map showing the locations of all existing and future personal wireless service facilities for this carrier.

9A.5.4.3 *Site filing requirements*: The following shall be included with the application for a site plan approval special permit for all personal wireless service facilities:

a. A one-inch-equals-forty-feet key map showing the following:

1. Property lines for the subject property.

2. Property lines of all properties adjacent to the subject property within 300 feet.
3. Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
4. Outline of all existing buildings, including purpose (e.g., residences, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
5. Proposed location of antenna, mount and equipment shelter or shelters.
6. Proposed security barrier, indicating type and extent as well as point of controlled entry.
7. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet, including driveways proposed to serve the personal wireless service facility.
8. Distances, at grade, from the proposed personal wireless service facility to each building on the key map.
9. Contours at each two feet above mean sea level for the subject property and adjacent properties with 300 feet.
10. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
11. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.
12. Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) as required by Section 9A.5.4.3.b. of this ordinance.

b. Sight lines and photographs as follows:

1. Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event that there is only one residential building within the 300 feet, there shall be at least two sight lines from the closest habitable structure or public roads, if any.

2. Existing (preconstruction) photographs. Each sight line shall be illustrated by a color photograph of what can currently be seen from any public road within 300 feet.

3. Proposed (postconstruction). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

c. Site elevations or views at grade from the north, east, south and west for a fifty-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either 1/4 inch equals one foot or 1/8 inch equals one foot scale and show the following:

1. Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.

2. Security barrier. If a security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

3. Any and all structures on the property.

4. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at the time of installation, with appropriate elevations dimensioned.

5. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

9A.5.4.4 *Design filing requirements:*

a. Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antenna, mounts, equipment shelter(s), cables, cable runs and security barrier(s), if any.

b. Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelter(s), cables, cable runs and security barrier(s), if any.

c. Colors of the proposed personal wireless service facility represented by a color board showing the actual colors proposed. Colors shall be provided for the antenna, mounts, equipment shelters(s), cables, cable runs and security barrier(s), if any.

d. Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelter(s), cables, cable runs and security barrier(s), if any.

e. Appearance shown by at least two photographic superimpositions of the personal

wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelter(s), cables, cable runs and security barrier(s), if any, for the total height, width and breadth.

f. Landscape plan, including trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.

g. Within 30 days of the preapplication conference or within 21 days of filing an application for a special permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the city at least seven days but not more than 14 days prior to the test. Notification shall be provided to all abutters of record indicating the date and time of the test. The balloon shall be flown at the maximum height of the proposed structure for a period of no less than 4 hours between the hours of 9:00 a.m. and 4:00 p.m. The balloon shall be a minimum of three feet in diameter and shall be brightly colored.

h. If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandles at grade within the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

9A.5.4.5 *Noise filing requirements*: The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night) for the following:

1. Existing, or ambient: the measurement of existing noise.

2. Existing plus proposed personal wireless service facilities: maximum estimate of the noise from the proposed personal wireless service facility plus the existing noise.

Such statements shall be certified and signed by an acoustical engineer, having a record of service to municipalities, stating that the noise measurements and estimates are accurate and will meet the noise standards of this ordinance.

9A.5.4.6 *Radiofrequency radiation (RFR) filing requirements*: The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility for the following situations:

1. Existing, or ambient: the measurement of existing RFR.

2. Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR.

Such statements shall be certified and signed by an RF engineer, having a record of service

to municipalities, stating that the RFR measurements and estimates are accurate and meet FCC guidelines as specified in this ordinance.

9A.5.4.7 *Federal environmental filing requirements:*

a. The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. 1). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

    1. Wilderness areas.
    2. Wildlife preserves.
    3. Endangered species habitat.
    4. Historical sites.
    5. Indian religious sites.
    6. Floodplain.
    7. Wetlands.
    8. High-intensity white lights in residential neighborhoods.
    9. Excessive radiofrequency radiation exposure.

b. At the time of application filing, an EA that meets FCC requirements shall be submitted to the city for each personal wireless service facility site that requires such an EA to be submitted to the FCC.

c. The applicant shall list location, type and amount of any materials proposed for use within the personal wireless service facility that are considered hazardous by federal, state or local governments.

9A.5.4.8 *Structural filing requirements:* The applicant shall provide a statement from a certified structural engineer, with a record of service to municipalities, stating that the service facility is of sound structural design for the intended use and locality.

9A.5.4.9 *Waiver of filing requirements*: The Planning Board may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

9A.5.4.10 *Exempted wireless service facilities*: This ordinance shall specifically exempt the following wireless service facilities:

a. Police.

b. Fire.

c. Other municipal emergency dispatches. (Ord. of 12-22-1998)

9A.6 *Collocation.*

9A.6.1 Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a special permit for a personal wireless service facility shall demonstrate a good faith effort to collocate with other carriers. Such good faith effort includes:

1. A survey of all existing structures that may be feasible sites for collocating personal wireless service facilities;

2. Contact with all the other licensed carriers for commercial and commercial mobile radio services in the county; and

3. Sharing information necessary to determine if collocation is feasible under the design configuration most accommodating to collocation.

9A.6.2 In the event that collocation is found not to be feasible, a written statement of the reasons for the unfeasibility shall be submitted to the city via the Planning Board. The city may retain a technical expert in the field of RF engineering to verify if collocation at the site is not feasible or is feasible given the design configuration most accommodating to collocation. The cost for such a technical expert will be at the expense of the applicant. The city may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for collocation.

9A.6.3 If the applicant does intend to collocate or to permit collocation, the city shall request drawings and studies that show the ultimate appearance and operation of the personal wireless service facility at full build-out.

9A.6.4 If the Planning Board approves collocation for a personal wireless service facility, the special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit. Estimates of RFR emissions will be required for all facilities, including currently proposed and future facilities. (Ord. of 12-22-1998)

9A.7 *Modifications:* A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a special permit when the following apply:

1. The applicant and/or coapplicant wants to alter the terms of the special permit by changing the personal wireless service facility in one or more of the following ways:

   a. Increasing the number of facilities permitted on the site.

   b. Change in the technology which would augment the light, sound or hazardous element(s) emitted from the personal wireless service facility.

2. The applicant and/or coapplicant wants to add any equipment or additional height not specified in the original design filing. (Ord. of 12-22-1998)

9A.8 *Monitoring and maintenance:*

9A.8.1 After the personal wireless service facility is operational, the applicant shall submit, to the Building Inspector, within 90 days of beginning operations, existing measurements of RFR from the personal wireless service facility. Such measurements shall be signed by an RF engineer, stating that the RFR measurements are accurate and meet FCC guidelines as specified in the radio frequency standards contained in this ordinance. The operator shall submit a letter to the Building Inspector certifying that the carrier or licensee meets FCC guidelines for RFR emissions every two years or whenever there is a change in fee standards.

9A.8.2 After the personal wireless service facility is operational, the applicant shall submit, to the Building Inspector, within 90 days of beginning operations, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that the noise measurements are accurate and meet noise levels established in Section 14-4.1 of the Ordinances of the City of North Adams.

9A.8.3 The applicant and/or coapplicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include but not be limited to painting, structural integrity of the mount and security barrier and maintenance of the buffer areas and landscaping and shall be performed under the guidelines of the FCC and FAA rules and requirements. Additionally, on a five-year basis, an engineering evaluation of the structural soundness of the wireless service facility shall be performed and a copy of the evaluation forwarded to the Building Inspector. (Ord. of 12-22-1998)

9A.9 *Abandonment or discontinuation of use.*

9A.9.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the city by certified United States mail of the proposed date of abandonment or discontinuation of use. Such notice shall be given no less than 30 days prior to the abandonment or discontinuation of operations. In the event that the licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of

operations.

9A.9.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include but not be limited to:

(1) Removal of antennas, mount, equipment shelters and security barriers from the subject property.

(2) Proper disposal of the waste materials from the site in accordance with local, state and federal solid waste disposal regulations.

(3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

9A.9.3 If a carrier fails to remove a personal wireless service facility in accordance with this section of this ordinance, the city shall have the authority to enter the subject property and physically remove the facility. The Planning Board may require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event that the city must remove the facility. (Ord. of 12-22-1998)

9A.10 *Reconstruction or replacement of existing towers and monopoles:* Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this ordinance may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the Planning Board finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the city than the existing structure. In making such a determination, the Planning Board shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits, such as the opportunity for collocation, improvements in public safety and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility. (Ord. of 12-22-1998)

9A.11 *Term of special permit.* A special permit issued for any personal wireless service facility over 50 feet in height shall be valid for 15 years. At the end of that time, the personal wireless service facility shall be removed by the carrier or a new special permit shall be required. (Ord. of 12-22-1998)

SECTION 10. OFF-STREET PARKING

10.1 *Parking facilities required*: Off-street parking facilities shall be provided to serve all buildings and uses erected, moved, established, altered, enlarged or which change in use except when located in a CB-1 or CB-2 District. Such facilities shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers and other persons normally visiting such

building or premises at any one time. (Ord. of 8-14-1990, § 1)

10.2 *Location of required parking facilities*: Required parking facilities shall be located on the same lot as the building or other use which they serve, except that by special permit from the Zoning Board of Appeals required parking facilities may be located not more than 200 feet from such building or use, measured in a straight line to the nearest space for vehicular parking. (Ord. of 6-27-1978, § II(11))

10.3 *Required minimum area*: Unless otherwise specifically approved by the Zoning Board of Appeals, required parking facilities shall contain not less than the minimum areas set forth below, exclusive of driveways and ramps necessary for access. Rooftop or indoor parking may be included in the required area. For single-family dwellings, the driveway may be included in the required area. A parking space is defined as having dimensions measuring 9 by 20 feet or 9 1/2 by 19 feet for a total square footage of 180 square feet. (Ord. of 10-13-1992, § 1)

Use	*Minimum Required Parking Spaces*
2-family structure	4
3-family structure	6
4-family structure	8
5-family structure	10
6-family structure	12
Multifamily dwellings with more than 6 dwelling units	2 each dwelling unit*
Industrial and manufacturing establishments	1 per 500 square feet of gross floor area or 1 1/2 for each employee on the maximum work shift, whichever is less
Wholesale and distribution, businesses, warehousing and businesses, truck terminals, and other enclosed nonindustrial storage uses	1 for each 1,000 square feet of gross floor area or 1 space for each 1 1/2 employees on the maximum work storage shift, whichever is less
Medical and dental offices	1 for each 150 square feet of office area

Business offices, financial institutions	1 for each 300 square feet of gross floor area
Eating establishment, taverns, cocktail lounges	1 for each 200 square feet of gross floor area, but not less than 5 spaces for each separate enterprise
Automotive services including but not limited to gas stations, auto dealers, auto accessories, auto repair, overhaul shops and car wash	1 for each 500 square feet of gross floor area; or 3 spaces per bay, lift or equivalent, whichever is greater. An attendant operated or self-service car wash shall have at least 5 waiting positions for each bay between the street line and such bay for cars approaching and at least 2 waiting positions for cars leaving said bays.
Appliance, carpet, furniture, electrical, heating, and plumbing retail sales	1 for each 750 square feet of gross floor area, but not less than 5 spaces per separate enterprise
Other retail sales and services	1 for each 200 square feet of gross floor area, but not less than 5 spaces for each separate enterprise
Bed-and-breakfast	1 space for each guest room, plus 2 spaces for residents
Artistic studio or shop for custom work or making of articles	1 for each employee
Any other use not listed in this table	As may be determined by the Planning Board, but not less than 1 for each 250 square feet of gross floor area

* A preexisting nonconforming multifamily structure (two or more units) which is converted to a multiple-family structure with fewer units than existed prior to such conversions does not need any additional parking spaces than existed prior to such conversion. (4-23-1974; Ord. of 5-8-1979; Ord. of 2-26-1980; Ord. of 5-13-1980; Ord. of 7-26-1988; Ord. of 7-26-1988; Ord. of 8-14-1990, § 2)

10.4 *Truck loading space:* In the case of hospitals, institutions, hotels, retail, wholesale and

industrial buildings, space shall be provided for loading and unloading of trucks at the rate of one (1) space not less than five hundred (500) square feet in area for each fifteen thousand (15,000) square feet of floor area or fraction thereof less than thirty thousand (30,000) square feet, and five hundred (500) square feet for each thirty thousand (30,000) square feet of floor area or fraction thereof in excess of thirty thousand (30,000) square feet. Minimum dimension of loading areas is ten by fifty (10 x 50) feet. (4-23-1974)

10.5 *Design and improvement requirements*

10.5.1 *General:*

10.5.1.1 The general layout and traffic circulation of parking and loading areas shall be designed so as to avoid unsafe conditions and traffic congestion in the street upon which the area has access and to provide for the safety and adequacy of access for vehicles and pedestrians using the area. (Ord. of 8-14-1990, § 3)

10.5.1.2 Parking areas and spaces are to be designed to permit safe access and exit of vehicles and to prevent vehicles from backing onto accessways or streets. (Ord. of 8-14-1990, § 3)

10.5.1.3 Any enclosed loading space shall be located at least thirty (30) feet from any street line and any open loading space shall be so designed that trucks when loading or unloading will not project over any street line. (Ord. of 8-14-1990, § 3)

10.5.1.4 Individual parking and loading spaces, maneuvering areas, entrances and exits shall be suitably identified with lines and arrows, as deemed necessary by the Building Inspector. (Ord. of 8-14-1990, § 3)

10.5.1.5 No access drive, aisle or maneuvering area shall have a turning radius of less than twenty (20) feet. (Ord. of 8-14-1990, § 3)

10.5.1.6 Where vehicles will be located adjacent to sidewalks, fences, walls, required buffer strips, trees, landscaping or similar construction, a suitable bumper or curb [not less than five (5) inches in height] shall be provided in such a location so that the vehicle cannot overhang or otherwise damage said obstruction. (Ord. of 8-14-1990, § 3)

10.5.1.7 All parking areas with ten (10) or more spaces, along with any loading areas and accessways, shall be surfaced with an asphaltic bituminous cement or other properly bound pavement so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water and accumulation within the area. (Ord. of 8-14-1990, § 3, Ord. of 10-13-1992, § 2)

10.5.1.8 Parking areas for ten (10) or more vehicles shall be constructed to the standards for construction as set forth in the North Adams Subdivision Rules and Regulations. Drainage design and construction shall include interconnected catch basins with oil and

grease traps. (Ord. of 10-13-1992, § 3)

10.5.1.9 Parking areas for ten (10) or more vehicles shall be delineated so the parking spaces are apparent. (Ord. of 10-13-1992, § 4)

10.5.1.10 All parking areas of less than ten (10) spaces shall be constructed of adequate all-weather surfacing, capable of allowing free and safe movement of all vehicles customarily using the facility. (Ord. of 10-13-1992, § 5)

10.5.1.11 Access drives shall be arranged for the free flow of vehicles at all times; and all maneuvering spaces and aisles shall be so designed that all vehicles must exit from and enter into a public street by being driven in a forward direction. (Ord. of 8-14-1990, § 3)

10.5.1.12 All portions of all parking spaces and maneuvering aisles shall be set back a minimum of five (5) feet from any wall of a building, except in residential districts. (Ord. of 8-14-1990, § 3)

10.5.1.13 Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other parking space. (Ord. of 8-14-1990, § 3)

10.5.1.14 Paved portions of parking areas shall not be constructed within minimum front yard, rear yard or side yard setback areas. (Ord. of 10-13-1992, § 7)

10.5.2 *Lighting:*

10.5.2.1 Any lighting used to illuminate any off-street parking, access drive or loading area shall be shielded and so arranged as to prevent direct glare from the light source onto adjoining premises and public rights-of-way. (Ord. of 8-14-1990, § 3)

10.5.2.2 Lighting shall be of such a design or level of illumination so as to minimize the amount of ambient lighting perceptible at adjacent properties. (Ord. of 8-14-1990, § 3)

10.5.3 *Parking lot landscaping:*

10.5.3.1 Parking requirements shall be met by utilization of parking lot cells having a maximum of fifty (50) parking spaces per parking lot cell. There shall be a minimum separation distance or thirty (30) feet between parking lot cells or an equivalent alternative that meets the objective of visually breaking up the paved area. (Ord. of 8-14-1990, § 3)

10.5.3.2 *Perimeter landscaping requirements.* All parking areas with more than ten (10) spaces and all loading areas shall be boarded on all sides, with the exception of accessways, with a ten-foot wide buffer strip on which shall be located and maintained appropriate landscaping of suitable type, density and height to effectively screen the parking area. (Ord. of 8-14-1990, § 3)

10.5.3.3 *Interior area landscaping requirements.* A minimum of ten percent (10%) of the interior area, exclusive of perimeter landscaping, of a parking lot cell containing twenty-five (25) or more spaces must be planted as landscaped island areas. The interior area of the lot shall be computed as the paved area excluding all parking spaces abutting the perimeter of the parking lot. The landscaped islands shall be so located that some part of every parking space is not more than forty-five (45) feet from either a landscaped island or the perimeter planting area. Curbing, at least five (5) inches in height, shall surround each landscaped island as protection from vehicles. (Ord. of 8-14-1990, § 3)

10.5.3.4 Plantings for perimeter and interior area landscaping requirements shall consist of:

(a) At least one (1) shrub or tree per thirty (30) linear feet of landscaped island area shall be provided, unless the Planning Board determines during a site plan review that there exists sufficient existing vegetation to allow for a different amount of vegetation.

(b) Trees shall be of a species tolerant to the climatic conditions of the city and parking area conditions, and be at least two-inch caliper [measure four (4) feet above grade level].

(c) Shrubs shall be a mix of deciduous and evergreen varieties, tolerant to the climatic conditions of the city, and be at least one (1) foot in height at time of planting.

(d) Remainder of the landscaped areas shall be planted with ground surface cover, such as lawn grass or live ground cover, over at least four (4) inches of topsoil.

(e) Wherever possible, the above requirements shall be met by retention of existing vegetation.

(f) Planting shall be done in accordance with accepted landscaping practices.

(g) Trees which die or become diseased shall be replaced and all landscaping shall be maintained. (Ord. of 8-14-1990, § 3)

10.5.4 *Access drive:*

10.5.4.1 No driveway or access road to or from any property shall be so located at its juncture with a street as to create a danger or menace to the community or to the convenience or proper use of the adjoining property. (Ord. of 8-14-1990, § 3)

10.5.4.2 No driveway shall provide access to a lot located in another zoning district, if said lot is used for any use, principal or accessory, not permitted in the district in which such driveway is located. The driveway or access road to a lot shall be through its frontage. (Ord. of 8-14-1990, § 3)

10.5.4.3 No driveway shall be located closer than twenty-five (25) feet to any street intersection measured along the street lines. In any nonresidential district, no two (2) driveways on the same lot shall be located closer than seventy-five (75) feet to each other at their

closest limits. (Ord. of 8-14-1990, § 3)

10.5.4.4 No lot having less than two hundred (200) feet of street frontage shall have more than two (2) driveway entrances and/or exits on each street abutting the lot. Lots with more than two hundred (200) feet of street frontages may have up to one (1) driveway entrance and/or exit for each two hundred (200) feet of additional street frontage. (Ord. of 8-14-1990, § 3)

10.6 *Highway buffer areas.* Any new required parking area, other than one servicing a single- or two-family residential use, on a site which abuts Route 2 between the Williamstown Town line and Hillside Cemetery, or Route 8 between the Adams Town line and Hooker Street, or Route 8 from the Clarksburg Town line to Miner Street, shall maintain a buffer area between such parking area and the highway. Such buffer area shall be of a width not less than the required front setback and shall be landscaped or maintained in a natural vegetated state. One (1) accessway of not more than twenty-five (25) feet in width shall be permitted within the buffer area. (Ord. of 8-14-1990, § 4)

10.7 *Waivers.* Strict compliance with the requirements of this Section 10 may be waived by the Zoning Board of Appeals when in the judgment of said Board such waiver or waivers are consistent with the general intent and purpose of this ordinance. (Ord. of 9-26-2006)

SECTION 11. REMOVAL OF TOPSOIL, SAND AND GRAVEL

11.1 *Removal restricted:* Unless otherwise provided in this section, there shall be no removal from the premises in any district of earth, sand, gravel, clay or quarrystone, except as surplus material resulting from a bona fide construction, landscape or agricultural operation being executed on the premises, and provided that no permanent damage is done to the landscape.

11.2 *Removal of topsoil:* The Zoning Board of Appeals may grant a special permit in any district for the removal of topsoil or loam from any area, provided that no less than four (4) inches of topsoil or loam remains and provided further that the entire area disturbed is seeded with a suitable cover crop or is put to cultivation. (Ord. of 6-27-1978, § 12)

11.3 *Removal of sand, gravel, clay:* The Zoning Board of Appeals, after public hearing, may issue a special permit for the removal of sand, gravel or clay in any district under the following conditions. (Ord. of 6-27-1978, § 13)

11.3.1 The applicant shall submit a plan showing existing grades in the area from which the above material is to be removed, together with finished grades at the conclusion of the operation.

11.3.2 The plan shall provide for proper drainage of the area of the operation during and after completion and no bank shall exceed a slope of one (1) foot of vertical rise in one and one-half (1 1/2) feet of horizontal distance except in ledge rock. No removal shall take

place within twenty (20) feet of a property line except that where the grade from a property line rises towards the lot where removal is to take place, material lying above the grade at the property line may be removed.

11.3.3 At the conclusion of the operation or of any substantial portion thereof, the whole area where removal takes place shall be covered with not less than four (4) inches of topsoil and seeded with a suitable cover crop, except where ledge rock is exposed.

11.3.4 Before a permit is granted under this section, the applicant shall post a bond with the Treasurer of the City of North Adams in an amount approved by the Zoning Board of Appeals as sufficient to guarantee conformity with the provisions of the permit issued hereunder. (Ord. of 5-8-1979)

SECTION 12. NONCONFORMING BUILDINGS AND USES EN(113)

12.1 *Existing uses continued:* Any structures or uses lawfully existing on the effective date of this Zoning Ordinance may be continued in accordance with the provisions of General Laws Chapter 40A, Section 6. Any subsequent and substantial alteration, reconstruction or extension of a nonconforming use or structure may be authorized by a special permit issued by the Zoning Board of Appeals which will be granted only if the Board finds that the proposed alteration, reconstruction or extension will not be substantially more detrimental to the neighborhood than is the existing nonconforming use. The issuance of a special permit hereunder shall not authorize the violation of any dimensional, parking or other regulation with which the structure or use was theretofore in conformity. (Ord. of 8-14-1990, § 1; Ord. of 10-13-1992)

12.2 *Abandonment of a nonconforming use:* A nonconforming use which has been abandoned or discontinued for a period of more than two (2) years or has been replaced by a conforming use shall lose the protection set forth above in Section 12.1. (Ord. of 8-14-1990, § 1)

12.3 *Single lot exemption for single- and two-family use:* A lot for single- or two-family residential use shall be exempt from any increase in area, frontage, width, yard or depth requirements resulting from the adoption or amendment of this ordinance, provided that:

(a) The lot was not held in common ownership with any adjoining land at the time of recording or endorsement, whichever occurs sooner;

(b) The lot conformed to existing zoning requirements at such time; and

(c) The lot has at least five thousand (5,000) square feet of area and at least fifty (50) feet of frontage. (Ord. of 8-14-1990, § 1)

12.4 *Effect of changes on permits:* Pursuant to Massachusetts General Laws Chapter 40A, Section 6, construction or operations under a building permit shall conform to this ordinance and any subsequent amendments hereto unless the use or construction is commenced within six (6)

months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as reasonable. (Ord. of 8-14-1990, § 1)

SECTION 13. PUBLIC GARAGES AND SERVICE STATIONS

13.1 The Zoning Board of Appeals, after a public hearing and under appropriate conditions and safeguards, and within the proper use districts, may issue a special permit for the erection of a public garage or auto service station. Under no circumstances shall a permit be issued for the erection of or enlargement of a public garage for more than five (5) motor vehicles, or a motor vehicle service station or gas filling station, or for the conversion of any premises not so used to be used for such purposes, if any part of the lot or plot in question is situated within a two-hundred-foot radius of any part of a lot used or to be used for: (Ord. of 6-27-1978, § 14)

13.1.1 A public school or a duly organized school other than a public school.

13.1.2 A hospital maintained as a charitable institution, or a private hospital maintaining at least fifteen (15) beds for patients.

13.1.3 A church.

13.1.4 A public library.

13.1.5 A public playground.

No gasoline filling appliance shall be located within twenty (20) feet of a street line or within twenty (20) feet of an adjacent property line. (4-23-1974)

13.2 *Access:* At any public garage, gasoline selling station or service station where the nature of the services rendered requires automobiles to drive over the sidewalk for entrance to or exit from the premises so used, definite driveways of reasonable width shall be delineated and suitable curbings shall be erected along the street line, between and on either side of driveways.

13.3 The zoning board of appeals shall find that the proposed use will not tend to depreciate the value of adjoining property or uses, impair the integrity of this regulation, endanger the appropriate use of land in the immediate neighborhood, or be inconsistent with the public welfare. (4-23-1974; Ord. of 6-27-1978, § II(15))

13.4 No existing garage for more than five (5) motor vehicles, group of garages for more than five (5) motor vehicles, or motor vehicle service station or gas filling station shall be deemed to become a nonconforming use through the subsequent erection of such a school, hospital, church, library or playground as defined above, within the aforesaid prescribed area. (4-23-1974)

SECTION 13A. MOBILE HOMES AND MOBILE HOME PARKS

13A.1 *Mobile home:* A mobile home is any vehicle or object on wheels and having no motor power of its own but which is drawn by or may be used in connection with a motor vehicle, and which I is so designed and constructed, or reconstructed or added to by means of accessories, as to permit the use of occupancy thereof for human habitation whether resting on wheels, jacks or other foundation. Only independent mobile homes, with completely trapped and vented sewage systems, shall be permitted in a mobile park. (7-23-1974; Ord. of 8-14-1990, § 1)

13A.2 *Mobile home park:* A mobile home park is any lot or tract of land upon which three (3) or more trailer coaches or mobile homes are occupied for dwelling purposes, .including any buildings, structures or equipment located thereon in connection therewith. (7-23-1974)

13A.3 *Future descriptions:* Future descriptions of domiciles intended for use as mobile homes and which basically suit the intent and description or specifications of a mobile home shall be subject to this ordinance. (7-23-1974)

13A.4 *Restricted use:* No mobile home may be permitted to be used in the City of North Adams unless same is so used in a mobile home park. (7-23-1974)

13A-5 Mobile home park district: The two (2) districts in the City of North Adams wherein a mobile home park may be permitted to be used shall be in a rural or affordable housing district. (7-23-1974; Ord. of 7-26-1988)

13A.6 *Boundary lines:* No mobile home park established in a rural or affordable housing district shall be within three hundred (300) feet of any presently zoned residential area or within one hundred (100) feet of any other zoned area within the city limits. (7-23-1974; Ord. of 8-14-1990, § 2)

13A.7 *Size of mobile homes:* No mobile home shall be allowed in any mobile home park the area of which including appendages and/or accessory buildings exceeds thirty-three and one-third (33 1/3) per cent of the lot size. The size of any mobile home, excluding appendages, must exceed nine (9) feet and six (6) inches in width and forty (40) feet in length. (7-23-1974)

13A.8 Size of mobile home spaces and setback: Each mobile home shall be provided with an area of land not less than five thousand (5,000) square feet and such area of land shall not be less than fifty (50) feet in width. A mobile home including appendages placed thereon shall be at least twenty (20) feet from the front line of the area provided for the mobile home, which front line shall border the mobile home park street or way; and, same shall be at least twenty (20) feet from the mobile home or appendage on any adjoining lot at the side and rear.

A corner lot in a mobile home park is that area of land which is bounded by two (2) intersecting streets or ways. Mobile homes placed on corner lots shall be at least twenty (20) feet from both

streets or way lines.

An accessory building placed on a mobile home lot may not exceed one hundred (100) square feet in area or eight (8) feet in height and shall be located at the extreme rear of the lot at a point farthest from the streets or way lines.

Notwithstanding the foregoing, no mobile home shall be allowed within forty (40) feet of a pre-existing street or way to which the public has a right of access. (9-22-1970; 7-23-1974)

13A.9 *Requirements of mobile home park:* Each mobile home park shall, in addition to the minimum lot size of each mobile home, as set forth in 13A.8 above, provide additional areas for correct parking, roads, grass-plot bordering and a general provision for recreation park and such accessory buildings that are incidental to the management of the park. This area shall be a minimum of forty (40) per cent of the entire area of the park. No buildings other than those used incidental to and in connection with the use of said park shall be permitted therein or thereon. Said recreation park shall be designed to provide for active and passive recreation of the residents of the mobile home park. Swimming facilities, when provided, shall be completely fenced.

13A.9.1 Mobile home sales are permitted in a mobile home park, on condition that an area in said park of not more than thirty thousand (30,000) square feet or forty (40) percent of total area of the park be provided therefore; which area shall be in addition to the forty (40) percent area mentioned in section 13A.9 and which shall not be within any required minimum front, side or rear yard area. The mobile home sales area shall be limited to a maximum of fifteen (15) units therein where said units may be kept for display and sale on the premises. This shall not restrict or limit any sale or sales of mobile homes therein situate being used or adopted for immediate use for human habitation in accordance with all the provisions of the existing ordinance. (9-14-1965; 7-23-1974; Ord. of 8-14-1990, § 3)

18A.10 *Mobile home park application; plans and specifications:* Each applicant for a license to operate a mobile home park shall file a written application with the building inspector who shall review same to determine that the area complies with provisions of this ordinance, as amended. The building inspector shall note his determination on said application and forward same to the board of health. The application shall contain:

13A.10.1 Name of mobile home park, boundaries, north point, date and scale.

13A.10.2 Name and address of record owner, and engineer or surveyor.

13A.10.3 Names of all abutters as they appear in the most recent tax list.

13A.10.4 Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, mobile home lots, and to establish these lines on the ground. Streets shall be constructed with a hard surface, consisting of one and one-half (1 1/2) inches minimum bituminous asphalt or concrete on a twelve (12) inch minimum

gravel base, within two (2) years of occupancy in any mobile home located on the street.

13A.10.5 Proposed lay-out of drainage, water supply, sewage disposal systems, recreation area, and all other proposed facilities. (7-23-1974)

13A.11 *Streets; location and alignment:*

13A.11.1 All streets in a mobile home park shall be designed so that they will provide safe vehicular travel. Due consideration shall be given by the park operator or owner to the attractiveness of the street layout in order to obtain the maximum livable amenity of the mobile home park.

13A.11.2 Provision shall be made for the proper projection of streets.

13A.11.3 The minimum width of street rights-of-way shall be forty (40) feet. (7-23-1974)

13A.12 *Watercourse, drainageway, channel or stream:* Where a mobile home park is traversed by a watercourse, drainageway, channel or stream, the building inspector may require that there be provided a drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainageway, channel or stream, and that adequate distance be provided between any mobile home and the drainage right-of-way. (7-23-1974)

13A.13 *Water supply:* An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and mobile home spaces within the park to meet the requirements of the park. Each mobile home space shall be provided with a cold water tap at least four (4) inches above the ground. An adequate supply of hot water shall be provided at all times in the service buildings for all bathing, washing, cleaning, and laundry facilities. (7-23-1974)

13A.14 *Service buildings:*

13A.14.1 Service buildings housing sanitation and laundry facilities, or any such facilities, shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

13A.14.2 The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moistureproof material, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least sixty-eight (68) degrees Fahrenheit (twenty (20) degrees Celsuis) during the period from October lst, to May lst. The floors of the service buildings shall be of water impervious material. (Ord. of 5-8-1979)

13A.14.3 All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance. (7-23-1974)

13A.15 *Sewage and refuse disposal:*

13A.15.1 Waste from showers, bathtubs, flush toilets, urinals, lavatories, slop sinks, and laundries in service and other buildings within the park shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of such construction and in such manner as will present no health hazard.

13A.15.2 The sewer in each space shall be connected to discharge the mobile home waste into a public sewer system in compliance with applicable ordinances or into a private sewer disposal plant or septic tank system of such construction and in such manner as will present no health hazard. (7-23-1974)

13A.16 *Central garbage and rubbish receptacles:* Metal garbage receptacles with tight-fitting covers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. The receptacles shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that the garbage receptacles shall not overflow. (7-23-1974)

13A.17 *Fire protection:* Every park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number and so located within the park as to satisfy applicable reasonable regulations of the fire department. No open fires shall be permitted at any place which may endanger life or property. No fires shall be left untended at any time. (7-23-1974)

13A.18 *Register of occupants:* It shall be the duty of each licensee and permittee to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

13A.18.1 The name and address of each mobile home occupant;

13A.18.2 The name and address of the owner of each mobile home;

13A.18.3 The make, model, year and serial number of each mobile home;

13A.18.4 The date of arrival and of departure of each mobile home.

The park shall keep the register available for inspection at all times by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park. (7-23-1974)

13A.19 *Licenses and fees:* A mobile home park owner or operator must fully comply with General Laws, Chapter 140, Sections 32A to 32L, inclusive, as applicable, and obtain necessary

licenses -from the board of health of the City of North Adams. (7-23-1974)

13A.20 *Board of health:*

13A.20.1 The board of health shall not grant any license for a mobile home park unless it receives written notification from the building inspector that the applicant has complied with all local zoning ordinances;

13A.20.2 That, upon the granting of a license, the board of health shall forthwith give notification thereof to the building inspector, board of assessors and the collector of taxes. (7-23-1974)

13A.21 *Reserved.* (Ord. of 7-1-1981; Ord. of 8-14-1990, § 4)

SECTION 13B. PERMITTING AND REGULATING CAMPGROUNDS

13B. 1 *Purpose:* The purpose of this ordinance is to provide regulations for areas developed, licensed and operated for recreational camping for overnight or longer periods under Article VIII of the State Sanitary Code, in order to promote public health, safety and general welfare, as authorized in Chapter 40A of the General Laws, as amended. (Ord. of 6-27-1978)

13B.2 *Permitted uses:* Campgrounds established under this ordinance may accommodate tents, mobile camping units, expandable trailer units, Adirondack shelters, and such other devices as may be developed and marketed for the camping trade, on rented camp sites, developed in accordance with the provisions of this ordinance, and may contain temporary or permanent buildings and facilities for common usage or group activity purposes, and one dwelling for resident manager or operator. The term "campground" as used in this ordinance does not include "mobile home parks" which are subject to the provisions of Section 13A of this ordinance. (Ord. of 6-27-1978)

13B.3 *Zoning districts:* A campground may be established under this ordinance by a special permit from the planning board as provided in section 16.2 herein, in any residence or rural zoning district established under the zoning ordinance and as shown on the zoning map of the city. (Ord. of 6-7-1978; Ord. of 5-8-1979)

13B.4 *Special requirements:* Any proposed campground shall comply with the development standards and operating criteria contained herein unless otherwise authorized by special permit from the planning board with regard to a specific requirement if the board finds, after a public hearing, that the compliance with such specific requirement will cause unnecessary hardship and that the proposed alternative is in harmony with the intent and purpose of this ordinance and will provide equal protection to camp sites and the neighborhood. These development standards and operating criteria are in addition to or in modification of other applicable provisions or requirements pertaining to the establishment and maintenance of such use contained in the State Building and Sanitary Codes, and any other applicable laws and regulations. (Ord. of 6-27-1978;

Ord. of 5-8-1979)

13B.5 *Development standards and operating criteria:*

(a) The minimum lot area for a campground development shall be twenty (20) acres.

(b) The number of camp sites in any one campground shall not exceed one hundred fifty (150) sites.

(c) There shall be a minimum of twenty (20) per cent of the total land area in a campground development left in its natural state.

(d) Within the development, usable land areas shall be provided for recreational uses, suitably graded and landscaped, to serve the needs of the proposed development in accordance with reasonable site planning standards.

(e) Off-street parking shall be provided for the cars of all patrons, and employees together with the necessary access driveways to public ways. Such parking areas and access driveways shall be adequate in the judgment of the planning board depending on the number of camp sites and terrain factors, and shall be treated to inhibit dust.

(f) Parking and recreational areas shall be so designated and located as to be safely and conveniently accessible from camp sites which they are intended to serve.

(g) Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.

(h) No driveway providing access from the street for such use shall be located within fifty (50) feet of any side lot lines. Camp sites, off-street parking areas and unenclosed recreational facilities shall be located not less than one hundred (100) feet from any property line and shall be screened in such a manner as to be not visible from adjacent lots in residential or institutional use.

(i) Where outdoor lighting is provided for activities after normal daylight hours, such lights shall be extinguished not later than 11:00 p.m. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public ways.

(j) No public address system shall be permitted except where such system is inaudible at any property line. (Ord. of 6-27-1978)

13B.5.1 *Camp sites:*

(a) Each camp site shall contain not less than two thousand five hundred (2,500) square feet of area for the exclusive use of each site occupant, provided that there shall be not more than ten (10) camp sites per gross acre devoted to such sites, and exclusive of all public open spaces.

(b) Each camp site shall not have less than fifty (50) feet frontage on an access driveway or way connected ultimately to a public street, and an average width of not less than fifty (50) feet, and a minimum depth of fifty (50) feet. This requirement shall not apply to so-called primitive areas where motor vehicles are excluded from the site.

(c) Each camp site shall have an open unoccupied yard, five (5) feet wide, along each camp site boundary line to serve as a buffer area between camp sites.

(d) Camp sites shall be arranged so that:

(1) There shall be not more than ten (10) contiguous camp sites on each side of the same way without separation by a way or a landscaped buffer strip not less than five (5) feet wide.

(2) The landscaped buffer strips shall continue five (5) feet wide along side or rear camp site lot lines, so as to separate the camp sites into groups of not more than twenty (20) surrounded by either landscaped or public spaces. (Ord. of 6-27-1978)

13B.6 *Special permit from planning board:* A campground may be established under this ordinance only upon the issuance of a special permit from the planning board in accordance with the provisions of Section 9, Chapter 40A of the General Laws, and in compliance with the requirements of this ordinance. (Ord. of 6-27-1978)

13B.6.1 *Authority:* The planning board is hereby designated as the special permit granting authority under this ordinance as authorized in Section 1A, Chapter 40A of the General Laws, as amended by Chapter 808 of the Acts of 1975. (Ord. of 6-27-1978; Ord. of 5-8-1979)

13B.6.2 *Application:* Any application to the planning board for a special permit under this ordinance shall be accompanied by a site plan which shall include, but not be limited to, the following:

(a) The boundaries of the property and all roads and buildings within five hundred (500) feet of the property;

(b) Proposed and existing roads, parking areas, required drainage and sanitary facilities, proposed grading, existing and proposed topography, proposed location of proposed buildings and the limits of proposed activities, proposed lighting and other utility installations, access and egress ways, together with a specific list of the proposed use or uses, including daytime and nighttime activities;

(c) The location and size of all proposed camp sites;

(d) Names and mailing addresses of all abutting property owners as they appear on the most recent tax list. (Ord. of 6-27-1978; Ord. of 5-8-1979)

13B.6.3 [*Compliance with section, 16.2 required:]* Any special permit issued by the planning board under this section shall be in compliance with and subject to all the applicable provisions of section 16.2 of this ordinance. (Ord. of 5-8-1979)

13B.6.4 [*Compliance with state and city regulations:*] No special permit shall be issued by the planning board under this section unless the board finds that the proposed facility is in compliance with the Commonwealth of Massachusetts and the City of North Adams public health regulations and any other laws and regulations pertaining to the establishment and maintenance of such use, and unless and until the Board of Health of North Adams has approved water supply, waste and refuse disposal methods and other aspects of the development which come under its jurisdiction. (Ord. of 5-8-1979)

13B.6.5 -13B.6.7. *Reserved.* EN(114)

SECTION 14. SIGNS EN(115)

14.1 *Signs excluded from regulation:* The following signs, as defined in Section 1 are exempt from the provisions of this article:

(a) Signs not exceeding two (2) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as 1) signs giving property identification names or numbers or names of occupant; 2) signs on mailboxes or newspaper tubes; and 3) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(b) Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, identification and informational signs, and traffic, directional or regulatory signs.

(c) Flags, pennants or insignia of any governmental or nonprofit organization.

(d) Signs not exceeding four (4) square feet in area directing and guiding traffic on private property and that bear no advertising matter.

(e) Church bulletin boards, church identification signs and church directional signs that do not exceed twenty-four (24) square feet in area.

(f) Signs painted on or otherwise permanently attached to currently registered motor vehicles that are not primarily used as signs.

(g) A sign, not exceeding six (6) feet in area, erected by any fraternal, civic, religious or service organization or club announcing its presence in the City of North Adams and the time and place of its regular meeting or special event.

(h) Signs in lawful existence as of the effective date of this section. (Ord. of 8-14-1990, § 1)

14.2 *General requirements:*

(a) No sign shall be placed or worded, designed, colored or illuminated so as to obscure or distract from signs regulating traffic.

(b) No sign shall be located so as to obstruct vision at the corners of intersected streets.

(c) Signs are not to be illuminated or placed in such a manner as to create a hazard to pedestrians or to motor vehicle traffic. No lights shall be allowed which can blind or otherwise interfere with the safe operation of any other vehicles.

(d) Wherever site plan approval is required (see Section 3D of this ordinance), it will include review and approval of sign location, size and illumination.

(e) No off-site sign or billboard shall be erected in a residential zone. An off-site sign or billboard may be erected in other zones only by special permit from the Zoning Board of Appeals.

(f) No sign shall contain any moving, flashing or animated lights, or lights of varying intensity, or visible moving or movable parts. This provision shall not prohibit marquees advertising motion pictures or theatrical performances.

(g) No sign shall be erected, displayed or maintained on any rock, tree or utility pole.

(h) All signs, together with their supports, braces, guys and anchors, shall be kept in good repair and in safe condition. The owner of the premises on which a sign is erected shall be responsible for keeping such sign and premises around it safe, neat and clean condition. The Building Inspector may order the removal of any signs that are not maintained or erected in accordance with the provisions of this section.

(i) Freestanding signs, as defined in Section 1, may not be more than fourteen (14) feet above the ground at the highest point of the sign. There must be a minimum elevation rise to the bottom of the signage of eight (8) feet from street elevation. Such sign shall not be located closer than fifteen (15) feet to any street line. (Ord. of 10-13-1992, § 1)

(j) Upon termination of any business which has employed a sign, that sign shall be removed by the property owner within ninety (90) days of the closure of the business. Two (2) extensions of three (3) months each may be granted by the Zoning Board of Appeals. Any subsequent business shall employ signs which conform to this section.

(k) No sign shall be erected or maintained with any lighting or control mechanism which causes radio or television interference.

(l) Roof signs may be authorized by a special permit from the Zoning Board of Appeals

subject to the following conditions:

1. The need for a roof sign shall be clearly stated on the basis that the general configuration and location of the building requires such a sign to inform the general public of the business carried on within the building.

2. Any applicant for a roof sign must provide the Zoning Board of Appeals with pictures, sketches and/or drawings establishing the relative size and configuration of the sign in relation to the building.

3. The top of a roof sign shall not exceed twenty percent (20%) of the height of building over the top of the building and shall in no case exceed six (6) feet. The length of the sign display surface area shall be limited to one-half (1/2) of the horizontal dimension of the wall above which the sign is located with a minimum of ten (10) feet permitted.

4. Only one (1) roof sign is permitted for any building, and its areas shall not exceed twenty-five percent (25%) of the maximum permitted sign area.

(m) Naked or unshaded incandescent or fluorescent electric light bulbs shall not be allowed by themselves or as part of any sign, except as part of holiday season decorations or community events or celebrations, or unless they are contained within the sign as internal illuminations.

(n) Awnings, signs, marquees and other similar projections: See Chapter 21, Article II, Sections 21-29 to 21-34. (Ord. of 8-14-1990, § 1)

14.3 *Signs permitted in all districts.* The following signs may be placed upon any lot within the City of North Adams:

(a) One (1) temporary nonilluminated sign, as defined in Section 1, not exceeding five (5) square feet in area, advertising the sale or lease of the premises, or advertising renovation or repairs being performed by tradesmen.

(b) One (1) nonilluminated marker not to exceed two (2) square feet in area identifying an historic building.

(c) Accessory signs directing traffic to entrances or exits from the building or parking area, provided that:

1. No freestanding directional sign exceeds two (2) square feet in area, or is placed higher than three (3) feet above the ground;

2. No such sign is closer than ten (10) feet to a lot line;

3. The number of such signs is limited to the minimum needed to give clear directions;

4. The sign bears no advertising matter.

(d) Temporary signs not exceeding sixteen (16) square feet in area, erected by a fraternal, civic, religious or service organization or club. Such signs shall not be erected for a period of more than thirty (30) days prior to the first day of the event and removed within seven (7) days of the last date of the event, unless, by special permit from the Zoning Board of Appeals, permission is given for such sign(s) to remain for a longer period of time.

(e) Signs located in windows; the total of all window signs shall not exceed twenty (20) square feet in area or fifteen (15) percent of the area of the window in which it is located, whichever is less.

(f) Temporary nonilluminated political signs not exceeding four (4) square feet in area, displayed during the period of time between the deadline for the filing of nomination papers for the office being sought by the candidate and one (1) week after the election date.

(g) Signs indicating an establishment is open or closed, including flags. (Ord. of 8-14-1990, § 1)

(h) Temporary signs, not exceeding six (6) square feet in area announcing a sale, at a commercial establishment, provided that such sign is in place for less than thirty (30) days. (Ord. of 10-18-1992, § 2)

14.4 *Signs related to commercial activities:*

(a) *Permitted by right.* The following types of signs advertising commercial business and services may be placed upon a lot in the City of North Adams as follows:

1. Within a CA-1, CA-2, CB-1, CB-2, CC-1, CC-2, I-1, 1-2, I-P or AP-1 District the total area of all signs may be at least sixteen (16) square feet or two (2) square feet per linear foot of frontage of the building, but not to exceed two hundred (200) square feet. The total area of all signs for a building fronting on two (2) streets may be at least thirty-two (32) square feet or two (2) square feet per linear foot of frontage, not to exceed two hundred (200) square feet. In no case shall standing signs aggregate more than twenty-five percent (25%) of the maximum sign area permitted.

2. Within all other districts, one (1) primary sign not exceeding eight (8) square feet in area and one (1) secondary sign not exceeding three (3) square feet.

3. Within a district allowing for a shopping center use, the total area of all signs may be at least sixteen (16) square feet per individual tenant or two (2) square feet per linear foot of frontage of each individual tenant, but not to exceed two hundred (200) square feet per individual tenant. (Ord. of 6-23-1992)

(b) *Permitted by special permit.* The Zoning Board of Appeals may grant a special permit for signs larger than those permitted by right in Section 14.4(a) above, or for signs announcing the name of a subdivision development, a multifamily housing development or a shopping center, if the Board finds that said signs meet the following design criteria:

1. The proposed signs will be considered with the character and use of the areas in which they are placed.
2. Every sign will have appropriate scale and proportion in its design and in its visual relationship to buildings and surroundings.
3. Every sign has been designed as an integral architectural element of the building and the site to which it principally relates.
4. The proposed colors, materials and illumination of every sign proposed is restrained and harmonious with the building and the site to which it principally relates.
5. The number of graphic elements on each sign has been held to the minimum needed to convey the sign's major message and is in proportion to the area of the sign face.
6. Each sign will not compete for attention.

(c) Notwithstanding the foregoing, the Board may grant a special permit equal in size to any existing permanent sign whose renewal is made a condition of the special permit. (Ord. of 8-14-1990, § 1; Ord. of 6-23-1992)

(d) Any request for more than four (4) signs per lot for a use other than a shopping center shall require a special permit from the Zoning Board of Appeals. (Ord. of 6-23-1992)

SECTION 15. ENVIRONMENTAL AND PERFORMANCE STANDARDS

The use of land, buildings and other structures shall be conducted in accordance with the following performance standards:

15.1 *Dust, dirt, fly ash and smoke:* No offensive dust, dirt, fly ash or smoke shall be emitted into the air. In no case shall material be exhausted or wasted into the air in excess of one (1) cubic centimeter of settled matter per cubic meter of air. Smoke or other air contaminant shall not be discharged into the atmosphere from any single source of emission, for a period or periods aggregating more than three (3) minutes in any one (1) hour, which is as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines; or which is of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelmann Chart. (4-23-1974)

15.2 *Odors, gases and fumes:* No offensive odors shall be emitted which are perceptible from any property line of the lot on which the operation is located and shall emit no noxious, toxic or

corrosive fumes or gases. Offensive odors noticeable off the premises where the use is located shall not exceed the standards established by the Massachusetts Department of Health. (4-23-1974)

15.3 *Noise:* No noise which is objectionable due to volume, intermittence, beat frequency or shrillness shall be transmitted outside the property where it originates, and in no case shall exceed eighty (80) decibels at any property line. (4-23-1974)

15.4 *Wastes:* No offensive wastes shall be discarded into any stream, watercourse or storm sewer. (4-23-1974)

15.5 *Vibration:* No vibration greater than an energy ratio of 1.0 shall be transmitted outside the property where it originates. (4-23-1974)

15.6 *Light:* No light which is objectionable due to brightness shall be transmitted outside the property where it originates. (4-23-1974)

15.7 *Danger:* No material which is dangerous due to explosion, extreme fire hazard or radioactivity shall be used, stored or manufactured except in accordance with applicable codes and regulations of the Commonwealth of Massachusetts.

No land within the City of North Adams may be used for the collection, treatment, storage, burial, incineration, or disposal of radioactive waste, or toxic waste including but not limited to wastes classified as low-level radioactive waste, unless the site has been approved by a special permit issued by the city council in accordance with the provisions of Section 16 of the Zoning Ordinances.

Such Special Permit may impose such conditions and limitations on the proposed use as the city council may determine are necessary for the protection of public health, safety and welfare. (4-23-1974; Ord. of 10-27-1981)

15.8 *Environmental and community impact analysis:*

15.8.1 *Applicability.* Any application for a special permit to be allowed to conduct a use listed below shall be required to submit, as part of the special permit application submission, an environmental and community impact analysis:

Uses Requiring an Environmental and Community Impact Analysis:

(a) Multi-family dwellings or developments of more than twelve (12) units.

(b) Nursing home with more than fifty (50) beds.

(c) Hotel, motels, tourist cabin establishments with more than fifty (50) sleeping accommodations.

(d) Shopping centers with more than ten thousand (10,000) square feet of gross floor area.

(e) Research and development facilities with more than twenty thousand (20,000) square feet of gross floor area.

(f) Theaters for indoor motion picture projection with more than two thousand (2,000) seats.

(g) Any other use which will be utilizing more than one hundred thousand (100,000) square feet of gross floor area or which can be expected to generate peak traffic volumes of more than one thousand (1,000) "Vehicle Trip Ends" at the "Peak Hour of Generation," as defined and determined from the Institute of Transportation Engineers' publication "Trip Generation."

(h) Campgrounds establishing or adding fifty (50) or more sites.

(i) Industrial uses with more than twenty-five thousand (25,000) square feet of gross floor area.

(j) Private and public utilities and power plants.

The environmental and community impact analysis shall clearly and methodically assess the relationship of the proposed use and/or development to the natural and manmade environment of North Adams. This report shall be prepared by an interdisciplinary team of professionals qualified, experienced, and, where applicable, licensed, in their fields. Such team may consist of Registered Professional Engineers, Traffic Engineers, Architects, Landscape Architects, Land-Use Planners, Hydrogeologists, Hydrologists, Biologists and other environmental professionals. (Ord. of 8-14-1990, § 1)

15.8.2 *Purpose.* It is intended that the report be a guide to the planning board in its deliberations and will build into the board's decision-making process an appropriate and careful consideration of the environmental and community impacts of the proposed use and/or development. (Ord. of 8-14-1990, § 1)

15.8.3 *Analysis.* For each of the components of the environmental and community impact analysis listed under 15.8.4 below, each of the following concerns must be separately addressed:

(a) The environmental and community impacts of the proposed use and/or development--All primary and secondary environmental and community impacts, both beneficial and adverse, anticipated as a result of the proposed use and/or development. This section shall include all impacts resulting from the construction phase as well as those resulting from the project's completion.

(b) Adverse impacts which cannot be avoided should the proposed use and/or development be implemented--The report shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced in severity, but not

eliminated.

(c) Alternatives to the proposed use and/or development--The report shall develop, describe, and objectively weigh alternatives to the proposed use and/or development which are allowed by the Zoning Ordinance.

(d) Measures to be used to minimize adverse environmental and community impacts--Corrective and protective measures which will be taken, as part of the project, to minimize adverse impacts shall be described in detail. (Ord. of 8-14-1990, § 1)

15.8.4 *Scope.* The environmental and community impact analysis shall evaluate all of the following topics:

(a) Natural environment:

1. Air and noise pollution--The impact of local air quality and noise from the proposed development (including traffic generated from the development), both during and after construction, shall be evaluated. The planning board may require detailed technical reports of such impacts.

2. Water pollution--The impact of storm water run-off on adjacent and downstream surface water bodies and subsurface ground water shall be evaluated. Dangers of flooding as a result of increased downstream runoff, especially peak runoff. The impact of the proposed project on water table levels shall also be analyzed.

3. Land--Compatibility of the proposed development with existing soils; the impact of any soils or other materials to be removed from the site; and the potential dangers and impacts of erosion and sedimentation caused by the proposed development.

4. Plants and wildlife--The impact that the proposed project may have on wildlife habitat and on any rare or endangered plant or animal species known to exist in the area.

5. Water supply--The average and peak daily demand and the impact of such demands on groundwater aquifers.

6. Sewage disposal--The average and peak daily disposal and the impact of such disposal on groundwater aquifers.

(b) Manmade environment:

1. Existing neighborhood land use--Compatibility with adjacent or nearby existing land uses, or approved private development plans, if known, for adjacent or nearby land use changes to occur during the life of the proposed development. If not compatible, reasons therefor shall be detailed. Consultation with the planning board is strongly

recommended.

2. Zoning--Compatibility of proposed development with the purposes of the Zoning Ordinance and the zoning district.

3. Architecture--The style of architecture of the buildings shall be described; its relation to prevailing types of architecture for similar buildings; and its compatibility with the function of the building and to the architecture of adjacent buildings. Sketches, photos, elevations and renderings are encouraged to illustrate architectural appropriateness as well as innovation.

(c) Public service:

1. *Schools*--The expected impact on the school system both elementary and secondary levels, the number of students; projected school bus routing changes and projections of future school building needs resulting from the proposed project.

2. *Police*--The expected impact on police services, time and manpower needed to protect the proposed development and service improvements necessitated by the proposed development.

3. *Fire*--Expected fire protection needs; on-site firefighting capabilities; on-site alarm or other warning devices; fire-flow water needs, source and delivery system and other needs shall be presented. Fire Department service improvements necessitated as a result of the proposed project shall also be discussed.

4. *Recreation*--On-site recreation provisions shall be detailed and off-site recreation demands shall be estimated. Provision for public open space, either dedicated to the city or available to its residents, shall be described. Open space available primarily or exclusively for residents or employees shall also be described.

5. *Solid waste disposal*--Analysis of the projected volume and type of solid waste to be generated by the proposed development and methods of removal.

6. *Traffic*--The expected impact of traffic generated by the proposed development on area roadways. Discussion shall include existing average and peak traffic volumes and composition, projected average and peak traffic generation and composition, intersection impacts and analysis of area roadway and intersection capacities. Methodologies used to make projection shall be described in detail.

7. *Highway*--Projected need, responsibility and costs to the city of roadway maintenance shall be analyzed. Impacts of construction equipment on area roadways shall also be discussed.

8. *Sewage disposal*--Analysis of the project average and peak sewage discharge and the

impact of such discharges on the North Adams sewerage system.

(d) *Aesthetics:*

1. *Lighting The type, design, location, function and* intensity of all exterior lighting facilities shall be described. Attention given to safety, privacy, security and daytime and nighttime appearance shall be detailed.

2. *Landscaping*--Provisions for landscaping shall be described, including type, location and function of all plantings and materials.

3. *Visual*--Attention given to views into the site and from the site shall be described. Included shall be long-distance views as well as views to and from adjacent properties.

(e) *Cost/benefit analysis:* This municipal benefit/cost analysis should follow standard and usual procedures for measuring both the benefits to be derived and costs to be incurred by the City of North Adams as a result of the proposed development. This element should also estimate net benefits of costs of nonquantifiable environmental impacts. (Ord. of 8-14-1990, § 1)

SECTION 16. ADMINISTRATION AND ENFORCEMENT

16.1 *Enforcement by Building Inspector:* This ordinance shall be interpreted, administered and enforced by the Building Inspector. No building permit shall be issued, except in compliance with the provisions of this ordinance or a decision of the Zoning Board of Appeals or the courts. (Ord. of 6-27-1978, § II (16); Ord. of 10-13-1992, § 1)

16.1.2 *Withhold permits:* The Building Inspector shall withhold a permit for the construction, alteration or moving of any building or structure if the building or structure as constructed, altered or moved would be in violation of this ordinance or any amendment thereof. No permit or certificate of occupancy shall be granted for a new use of a building, structure or land use which would be in violation of this ordinance. No permit shall be granted for a new use of a building, structure or land which requires site plan approval unless such approval has been secured from the Planning Board in accordance with Section 3D, Site Plan Approval. (Ord. of 10-13-1992, § 1)

16.1.3 *Building permit applications:* All applications for building permits shall be accompanied by such plan or plans drawn to scale and showing the locations and dimensions of the lot to be built upon and such other information as may be deemed necessary by the Building Inspector to determine compliance with the provisions of this ordinance. (Ord. of 10-13-1992, § 1)

16.1.4 *Construction:* Construction or operators under a building permit shall conform to any

subsequent amendment(s) of this ordinance unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the building permit and unless such construction is continued through to completion as continuously and expeditiously as is reasonable. (Ord. of 10-13-1992, § 1)

16.2 *Special permits:*

16.2.1 *Special-permit-granting authority:* Any board designated as special-permit-granting authority in this ordinance may hear and decide applications for special permits upon which such board is specifically authorized to act under this ordinance in accordance with the provisions of Section 9, Chapter 40A, of the General Laws. Such special-permit-granting authority shall adopt and from time to time amend rules relative to the issuance of such permits and shall file a copy of these rules with the City Clerk. Said rules shall not be inconsistent with the provisions of the revised ordinance or Chapter 40A of the General Laws. (Ord. of 6-27-1978, § III(14))

16.2.2 *Required hearing and notice:* Special permits may only be issued following public hearings held within sixty-five (65) days after filing of an application with the Building Inspector for the special-permit-granting authority. Notice of public hearing shall be given by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the day of such hearing, and by mailing it to "parties in interest" as provided in Section 11, Chapter 40A (General Laws), which include the petitioner, abutters, owners of land directly opposite on any public or private street or way and owners of land within three hundred (300) feet of the property line, all as they appear on the most recent applicable tax list, the Planning Board and the Planning Board of every abutting city and town. (Ord. of 6-27-1978, § III(14))

16.2.3 *Review by other boards and agencies:* The special-permit-granting authority shall, within ten (10) days following its next regularly scheduled meeting after receipt of an application for a special permit, transmit a copy thereof for review to the Board of Health, Conservation Commission, Historical Commission, City Engineer, Commissioner of Public Services and Commissioner of Public Safety and any other municipal board or agency at the discretion of the special-permit-granting authority. Any board or agency to which such application is referred for review shall make such recommendations as it deems appropriate in writing; provided however, that failure to make recommendations within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto. (Ord. of 6-27-1978, § III(14); Ord. of 10-13-1992, § 2)

16.2.4 *Findings required:* Before granting a special permit for any use requiring such permit under the provisions of this ordinance, the special permit granting authority shall find

that the proposed use:

(a) Will be in harmony with the general intent and purpose of this ordinance; and

(b) Will not be detrimental to adjacent uses or to the established or future character of the neighborhood;

(c) Will not have vehicular and pedestrian traffic of a type and quantity so as to cause significant adverse effect to the neighborhood;

(d) Will not have a number of residents, employees, customers or visitors so as to cause significant adverse effect to the neighborhood;

(e) Will not be dangerous to the immediate neighborhood or the premises through fire, explosion, emission of wastes or other causes;

(f) Will not create such noise, vibration, dust, heat, smoke, fumes, odor, glare, adverse visual effects or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;

(g) Will not cause degradation of the environment;

(h) Will not impose an excessive financial burden to the city. (Ord. of 6-27-1978, § III(14); Ord. of 7-1-1981; Ord. of 8-14-1990, § 1)

16.2.5 *Conditions, safeguards and limitations:* Special permits may be issued subject to such conditions, safeguards or limitations as the special-permit-granting authority may impose for the protection of neighboring uses or otherwise serving the purposes of this ordinance. Such conditions, safeguards or limitations may include, but are not limited to, the following:

(a) Front, side and rear yards greater than the minimum required by this ordinance; screening buffers or planting strips, fences or walls as specified by the authority;

(b) Limitations upon the size, number of occupants, method and time of operation, time duration of the permit or extent of facilities;

(c) Regulation of number and location of driveways or other traffic features, and off-street parking or loading, or other special features beyond the minimum required by this ordinance.

Any conditions, safeguards or limitations shall be imposed in writing and shall be made a part of the building permit. (Ord. of 6-27-1978, § III(14); Ord. of 5-8-1979)

16.2.6 *Site plan required:* For any special permit which does not require a formal site plan review under the provisions of Section 3D of this ordinance, an application for a special permit shall be accompanied by an accurate site plan indicating the dimensions of the lot

and the location, size and height of existing and proposed buildings and site improvements, and containing such other information as may be needed by the special-permit-granting authority for proper consideration and action on the application. (Ord. of 6-27-1978, § III(14); Ord. of 8-14-1990, § 2)

16.2.7 *Decisions and vote requirements:* The special-permit-granting authority shall act within ninety (90) days following the date of public hearing. Failure to take final action upon an application for special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for.

A special permit issued by a special-permit-granting authority shall require a two-thirds vote of boards with more than five (5) members, a vote of at least four (4) members of a five-member board and a unanimous vote of a three-member board. (Ord. of 6-27-1978, § III(14)

16.2.8 *Expiration of special permit:* A special permit shall lapse in two (2) years if substantial use or construction has not begun under the permit by such date except for good cause. (Ord. of 6-27-1978, § III(14); Ord. of 8-14-1990, § 3)

16.3 *Violations of ordinance:* If the Building Inspector shall be informed or have reason to believe that any provisions of this ordinance or any permit issued thereunder has been, is being or is likely to be violated, he shall make or cause an investigation to be made of the facts, including an inspection of the property where the violation may exist. If he finds any violations, he shall give immediate notice in writing to the owner or his duly authorized agent and to the occupants of the premises and order that such violation immediately cease. Where it becomes necessary to effectively enforce this ordinance, he may institute such legal process as deemed advisable. (Ord. of 6-27-1978, § III(15); Ord. of 10-13-1992, § 3)

16.3.1 *Request to enforce:* If the Building Inspector is requested in writing to enforce a zoning ordinance against any person allegedly in violation of the same and the Building Inspector declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons thereof, within fourteen (14) days of receipt of such request. Any such request not acted upon within fourteen (14) days shall be deemed denied. (Ord. of 10-13-1992, § 3)

16.3.2 *Penalty for violation of zoning ordinance:* Any person violating any provisions of this ordinance or amendments thereof, or any of the conditions under which a special permit or variance is issued, may be fined not more than three hundred dollars ($300.) for each offense. Each day that such a violation continues shall constitute a separate offense. (Ord. of 10-13-1992, § 3)

16.3.2.1 Reserved.

16.3.2.2 Any home occupation which represents a significant change or disruption to a residential area, as determined by the Building Inspector, shall be penalized by a fine of

not more than one hundred dollars ($100.). After two (2) such fines, the permit may be revoked by the Building Inspector, with the right to a final hearing of the Zoning Board of Appeals. (Ord. of 8-14-1990, § 4; Ord. of 10-13-1992, § 3)

SECTION 17. ZONING BOARD OF APPEALS

17.1 *Appointment, composition and term of office:* There shall be a Zoning Board of Appeals consisting of five (5) members who shall be citizens of the city. The Mayor shall appoint the members of such Board. Their terms shall be five (5) years in length and so arranged that the term of one (1) member shall expire each year on the first day of January. Said Board may be the same Board created under Article XVI, Section 2-87, of these Revised Ordinances. (Ord. of 6-27-1978, § III(15))

17.1.1 *Associate members:* The Mayor shall also appoint two (2) associate members of the Zoning Board of Appeals. The associate members shall be citizens of the city and shall each serve for the term of five (5) years. The Chairman of the Board may designate any such associate member to sit on the Board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the Board until said vacancy is filled in the manner thereinafter provided. (Ord. of 6-27-1978, § III(15))

17.1.2 *Removal:* Any member or associate member may be removed for cause by the Mayor upon written charges and after a public hearing. (Ord. of 6-27-1978, § lII(15))

17.1.3 *Vacancies:* Vacancies shall be filled for the unexpired terms in the same manner as in the case of original appointments. (Ord. of 6-27-1978, § III(15))

17.2 *Officers and employees:* The Board shall annually elect a Chairman from its own number and a Clerk and may, subject to appropriation, employ experts and clerical and other assistants. (Ord. of 6-27-1978, § III(15))

17.3 *Powers and duties:* The Zoning Board of Appeals shall have the powers and duties conferred by General Laws Chapter 40A, Section 14, which are:

(a) To hear and decide petitions for variances from Chapter 40A.

(b) To hear and decide applications for special permits upon which the Board may be empowered to act by these ordinances.

(c) To hear and decide petitions for variances from the terms of these Revised Ordinances with respect to a particular piece of land or structure. Such variances shall be granted only in cases where the Zoning Board of Appeals finds the following:

1. That there are circumstances relating to the soil conditions, shape or topography

which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located.

2. That due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance would involve substantial hardship, financial or otherwise to the petitioner or appellant.

3. That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance.

4. That desirable relief may be granted without substantial detriment to the public good. (Ord. of 6-27-1978, § III(15); Ord. of 8-14-1990, § 1)

17.4 *Rules:* The Zoning Board of Appeals shall adopt rules, not inconsistent with the provisions of these Revised Ordinances or Chapter 40A of the General Laws, for conducting its business and shall file a copy of said rules with the City Clerk. Meetings of the Board shall be held at the call of the Chairman and also when called in such other manner as may be provided for in its rules. (Ord. of 6-27-1978, § III(15))

17.5 *Appellate procedure:* The appellate procedure of the Zoning Board of Appeals shall be as outlined in Section 14 of said Chapter 40A. (Ord. of 6-27-1978, § III(15))

CODE COMPARATIVE TABLE

This table contains a chronological listing of all ordinances included in the Code, beginning with Supplement No. 12, 9-79. The abbreviations "rpld" and "rnbd" are used to denote repealed and renumbered sections.

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	2		App. 16.2.3
	3		App. 16.3

10-27-1992	--	13-42
11-10-1992	--	7-11
11-10-1992	--	App. 1
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3-23-1993	--	13-49
5-11-1993	--	Special Acts, 2B
5-11-1993	--	Special Acts, 2B
5-25-1993	--	7-11
5-25-1993	--	13-58
6-22-1993	--	Special Acts, 2B
7-13-1993	--	13-61
7-27-1993	--	13-49
7-27-1993	--	13-42
7-27-1993	--	13-43
8-10-1993	--	App. 3D.14.1
8-24-1993	--	1-15
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9-28-1993	--	13-49
10-12-1993	--	13-42
11-23-1993	--	13-50.1
12-14-1993	--	2-83--2-86.1 added
12-28-1993	--	7-11; 7-11.1; 7-11.2 rpld
2-8-1994	--	7-11
2-8-1994	--	2-5--2-7
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6-27-1995	--	13-50
8-22-1995	--	2-162--2-166 added
8-22-1995	--	Special Acts, 2B
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10-10-1995	--	13-50
5-14-1996	--	13-49
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5-14-1996	--	13-50.1
8-27-1996	--	Special Acts, 2B

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3-25-1997	--	23-14
5-13-1997	--	12-13--12-13.9 added
5-13-1997	--	14-11 added
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6-14-1997	--	2-40.1
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8-26-1997	--	21-25
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11-25-1997	--	7-19
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5-26-1998	--	12-13.9 rpld
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6-8-1999	--	13-41.1 added
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6-8-1999	--	23-2.1 added
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Endnotes

1 (Popup)
Editor's Note: For subject matter of repealed § 51, relative to salaries of the mayor and council see § 17A of this chapter, and G.I. C. 30, § 6A.

2 (Popup)
For law of the commonwealth as to ordinances, bylaws and regulations, see G.L.C. 40, §§ 21 to 33.

3 (Popup)
For law of the commonwealth as to publication of ordinances, see G.L.C. 43, § 23.

4 (Popup)
For law of the Commonwealth as to city seals generally, see G.L.C. 40 § 47.

5 (Popup)
As to lawful use of a city seal, see G.L.C. 268, § 35.

6 (Popup)
For law of the Commonwealth in connection with this section, see G.L.C. 40, § 47.

7 (Popup)
For provisions concerning licenses and permits generally, see Ch. 12 of this volume.

8 (Popup)
For law of the Commonwealth requiring the mayor to take the action set forth in this section, see G.L.C. 43, § 29.

9 (Popup)
Editor's Note: Former Sec. 1-16, General penalty, as amended, was repealed by an ordinance of 10-27-1998. See now Ch. 29, Penalties.

10 (Popup)
Editor's Note: Former Sec. 1-17, Disposition of fines, was repealed by an Ordinance of 10-27-1998. See now Ch. 29, Penalties.

11 (Popup)
Cross reference --Licenses and permits generally, Ch. 12.

12 (Popup)
For law of the commonwealth as to salary plans for certain employees, see G.L, C. 41, § 108A.

13 (Popup)
Editor's Note: This schedule, as amended, does not appear in this volume, but may be found on file in the office of the City clerk.

14 (Popup)
Editor's Note: This schedule, as amended, does not appear in this volume, but may be found on file in the office of the City clerk.

15 (Popup)
Editor's Note: Two ordinances of 11-27-1979 repealed §§ 2-31.2 and 2-31.3, relative to longevity increases for police and for employees of the Highway, Water and Sewer, Cemetery and Recreation Departments. These sections were derived from ordinances of 6-22-1976 and 11-9-1977. Former § 2-31.4 was renumbered as § 2-31.1. Said § 2-31.1, Longevity increases for employees generally, and former § 2-31.2, Longevity payment, added by Ord. of 3-11-1992, were repealed by an ordinance of 6-27-2000.

16 (Popup)
*State Law reference: City Clerks, MGL c. 41, § 12 et seq; MGL; c. 43, § 18.

17 (Popup)
*State Law reference: Appointment of City Solicitor, MGL, c. 43, § 60.

18 (Popup)
State Law reference: Bond of Treasurer MGL c. 41, § 35 et seq.

19 (Popup)
Editor's Note: In five separate ordinances enacted April 28, 1981, and effective July 1, 1981, the City repealed Arts. VIII-XII, which pertained to, respectively:

20 (Popup)
Editor's Note: See also Zoning, in the Appendix.

21 (Popup)
Editor's Note: An ordinance adopted 4-28-1981, and effective 7-1-1981, repealed §§ 2-83 - 2-86, relative to the Department of Public Welfare. The sections bore no history note.

22 (Popup)
For law of the Commonwealth as to City boards of health, see G. L., C. 111, § 26 et seq.

23 (Popup)
State law reference: Health regulations generally and penalty for violations thereof, MGL c. 111, § 31.

24 (Popup)
Editor's Note: An ordinance enacted 4-28-1981, and effective 7-1-1981, repealed former §§

2-102.1 and 2-102.1a, concerning the Housing Code Inspector and inspection of rental dwelling units by him, deriving from ordinances of 2-8-1966, 12-11-1973, and 3-14-1978.

25 (Popup)
Editor's Note: An ordinance of 4-28-1981, and effective 7-1-1981, repealed §§ 2-103--2-107, constituting Art. XVIII relative to the City Physician. The sections bore no history notes. See § 8-59.

26 (Popup)
State law reference: Airport commissions for cities, MGL c. 90, § 51E et seq.

27 (Popup)
See G. L., C. 90, § 51E.

28 (Popup)
For law of the commonwealth as to shade trees generally, see G. L., C. 87 § 1 et seq.

29 (Popup)
For authority to create conservation commission, see G. L., C. 40, § 8C.

30 (Popup)
For reimbursement of City for acquisition of land and planning, see G. L., C. 132A, § 11.

31 (Popup)
Editor's Note: Former § 2-148, relating to the community development cabinet, derived from an ordinance adopted 6-10-1980, was repealed by an ordinance adopted 3-22-1983.

32 (Popup)
For law of the Commonwealth as to State Building Code, see MGL c. 143. As to numbering of buildings, see § 21-2. As to moving buildings through streets, see § 21-9. For provisions concerning zoning regulations, see the Appendix.

33 (Popup)
For law of the Commonwealth as to unsafe buildings generally, one G.L.C. 143, § 6 et seq.

34 (Popup)
See G.L, C. 40A, § 13 et seq.

35 (Popup)
For regulations as to permits generally, see Ch. 12 of this volume.

36 (Popup)
For law of the Commonwealth as to certain exemptions, see G. L. C. 101, §§ 2, 15, 17.

37 (Popup)
For law of the Commonwealth applying to transient vendors, see G. L. C. 100, § 1 et seq.

38 (Popup)
As to licensing regulations generally, see Ch. 12 of this volume.

39 (Popup)
Editor's Note:-An ordinance enacted April 28, 1981, and effective July 1, 1981, repealed §§ 5-1 -- 5-10, which constituted Ch. 5, "Cemeteries." The deleted provisions derived from ordinances of May 24, 1966; Oct. 27, 1970; and Sept. 23, 1980.

40 (Popup)
Editor's Note:-An ordinance enacted April 28, 1981, and effective July 1, 1981, repealed §§ 6-1 -- 6-6, which constituted Ch. 6, "Civil Defense." The deleted sections bore no history notes.

41 (Popup)
Editor's Note:-An ordinance adopted April 28, 1 981, and effective July 1, 1981, repealed §§ 6-1 - 6-6, which made up Ch. 6, "Civil Defense." The deleted sections bore no history notes.

42 (Popup)
Editor's Note: Section 1 of an ordinance enacted 4-28-1981, and effective 7-1-1981, repealed §§ 7-1 -- 7-7, which constituted former Ch. 7, "Electricity." The deleted provisions were derived from ordinances adopted 12-13-1965; 11-25-1969; 12-23-1973; 3-24-1981.

43 (Popup)
Editor's Note: - See also Ch. 3, Building Code; Ch. 11, Library; Ch. 13, Traffic; Ch. 21, Streets and Sidewalks; and Ch. 24, Water, Sewers and Drains.

44 (Popup)
Cross References: - Building Code, Ch. 3; library, Ch. 11; motor vehicles and traffic, Ch. 13; streets and sidewalks, Ch. 21; water, sewers and drains, Ch. 24.

45 (Popup)
Editor's Note: This ordinance also stated that charges shall have an effective date of 6-1-2008.

46 (Popup)
Editor's Note: This ordinance provided that all permit increases shall become effective for Fiscal Year 2009.

47 (Popup)
Editor's Note: Former Section 7-11.2, Illegal dumping, added 1-14-1992, was repealed 12-28-1993.

48 (Popup)
Editor's Note: Section 1 of an ordinance enacted April 28, 1981, and effective July 1, 1981, repealed §§ 8-1-8-10, which comprised Ch. 8, "Fire Department." The deleted sections derived from ordinances adopted on the following dates: April 14, 1964; April 8, 1969; April 22, 1969; Feb. 20, 1970; June 9, 1970; Sept. 26, 1972; Oct. 10, 1972; July 23, 1974; Nov. 28, 1978; Aug.

28, 1979.
In a separate ordinance enacted April 28, 1981, the city amended the Code by adding a new Ch. 8, as set out herein.
Cross references-Disability of firemen and police resulting from performance of duty, § 2-13; authority of police relative to traffic, § 13-3.

49 (Popup)
Editor's Note: An ordinance adopted Nov. 27, 1984, repealed § 8-8 which pertained to the deputy commissioner of public safety as derived from an ordinance adopted April 28, 1981.

50 (Popup)
Editor's Note: An ordinance adopted Nov. 27, 1984, repealed § 8-63 which pertained to the sanitarian as derived from an ordinance enacted April 28, 1981.

51 (Popup)
Editors Note: For law of the commonwealth as to hawkers and peddlers, see MGL c. 101, § 13 et seq. As to transient vendors, see MGL c. 101, § 1 et seq.

52 (Popup)
Editor's Note: For law of the commonwealth permitting the sale of certain articles without a license, see MGL c. 101, §§ 15 and 17. As to licensing provisions generally, see Ch. 12 of this volume.

53 (Popup)
Editor's Note: For similar law of the commonwealth, see MGL c. 101, § 5. As to licensing provisions generally, see Ch. 12 of this Code.

54 (Popup)
Editor's Note: Former Sec. 9-11, Same--Penalties, was repealed by an ordinance of 2-9-1999. See now Ch. 29, Penalties.

55 (Popup)
Editor's Note: State law reference--Authorization of city to license and regulate junk and secondhand dealers, MGL c. 140, § 54 et seq.

56 (Popup)
See also §§ 7-1 and 7-37 for provisions on the Library Division as part of the Department of Public Services. For statutory provisions on libraries in cities, see MGL c. 78, § 7 et seq.

57 (Popup)
Cross references - Authority of officers and boards to grant licenses and permits, § 1-13; Board of License Commissioners, § 2-4; permits for canvassers and solicitors generally, § 4-2; licensing of itinerant photographers, §§ 4-11 - 4-13; licensing of peddlers of food, §§ 9-1 - 9-3; licensing of transient vendors, § 9-8 et seq.; licensing of junk and secondhand dealers, § 10-2; licensing in connection with the sale of used motor vehicles or parts thereof, § 10-9; taxicab operator's

license, § 23-7 et seq.; taxicab driver's license, § 23-13 et seq.; licensing of busses, § 23-17. State law reference - Licensing regulations generally, MGL C. 140.

58 (Popup)
Editor's Note: See MGL c. 110, § 5.

59 (Popup)
State law reference - Cities authorized to license auctioneers, MGL C. 100, § 1 et seq.

60 (Popup)
State law reference - Cities authorized to license billiard tables and bowling alleys, MGL C. 140, § 177.

61 (Popup)
Editor's Note: Former § 12-7 was repealed by an ordinance of 12-26-1973.

62 (Popup)
Editor's Note: Former Sec. 12-13.6, Penalties, was repealed by an ordinance of 2-9-1999, which ordinance also provided for the renumbering of Sections 12-13.7 through 12-13.9 as Sections 12-13.6 through 12-13.8, respectively.

63 (Popup)
Editor's Note: Former Sec. 12-13.9 (subsequently renumbered as 12-13.8), Duration, was repealed by an ordinance of 5-26-1998.

64 (Popup)
Editor's Note: For provisions on traffic regulations in public parks and recreation areas, see § 15-20. For statutory provisions on motor vehicles, see MGL c. 90, §§ 1 through 34K; law of the road, see MGL c. 89, §§ 1 through 11; other provisions regulating traffic, see MGL c. 85, §§ 1 through 36; authority of City to pass ordinances regulating vehicles, see MGL, c. 40, § 22.

65 (Popup)
Cross reference-Traffic regulations in public parks, recreation areas, § 15-20.
State Law reference-Motor vehicles, G.L., C. 90, §§ 1--34K; law of the road, G.L., C. 89, §§ 1--11; other provisions regulating traffic, G.L., C. 85, §§ 1--36, authority of city to pass ordinances regulating vehicles, G.L., C. 40, § 22.

66 (Popup)
State Law reference: Signs, signals and markings, MGL, c. 85, §§ 1, 2, 21A.

67 (Popup)
Editor's Note: As to injuring public property generally, see § 14-7 of this volume.

68 (Popup)
State law reference: Civil liability for violation of one-way street regulations, MGL. c. 89, § 10.

69 (Popup)
Cross Reference-Slow-moving vehicles, § 13-35.

70 (Popup)
Editor's Note: This section was added by ordinance of 7-24-1979, as § 13-47a, which the editor has redesignated as § 13-47.1 to preserve Code format.

71 (Popup)
State law reference - Penalties for violation of parking regulations, MGL c.90 20A.

72 (Popup)
Cross reference - Vehicles parked in certain areas subject to towing, § 13-55.1(e).

73 (Popup)
Editor's Note: See also §§ 23-17 through 23-20, Buses.

74 (Popup)
State law reference-Authority of city in relation to parking meters, MGL. C. 40, § 22A.

75 (Popup)
Editor's Note: As to injuring public property generally, see § 14-7 of this volume.

76 (Popup)
Editor's Note: An ordinance adopted June 14, 1988 (No. 9625-4), deleted former § 14-3, which pertained to throwing dead animals, etc. into streams and other bodies of water. Former § 14-3 did not contain history notation and is presumed derived from the original codification.

77 (Popup)
Editor's Note: Cross References: Disorderly conduct in parks and recreation areas, § 7-27(9); playing games in streets and on sidewalks, § 21-23.

78 (Popup)
Editor's Note: Cross reference: Discharging weapons in streets or on sidewalks, § 21-24.

79 (Popup)
Editor's Note: An ordinance adopted June 14, 1988 (No. 9625-4), deleted former § 14-6, which pertained to the distribution of handbills. Former § 14-6 did not contain history notation and is presumed derived from the original codification.

80 (Popup)
Editor's Note: Cross references: Injuring, etc., shrubs, lawns, etc., under jurisdiction of park and recreation commission, § 7-27(5); injuring, etc., traffic signs, signals or markers, § 13-25; injuring, etc., parking meters, § 13-64.

81 (Popup)

Editor's Note: An ordinance adopted May 26, 1987 (No. 95221-1), deleted former §§ 14-9.1 and 14-9.2, which pertained to the restraint of dogs, as derived from Ords. of 6-27-1966; 8-10-1976, §§ 1, 2; 7-11-1978; 3-23-1982 and 11-13-1984. Provisions regarding the regulation of dogs are currently set out in Ch. 27 of this Code.

82 (Popup)
Editor's Note: An ordinance adopted June 14, 1988 (No. 9625-4), deleted former § 14-10, which pertained to spitting in public places. Former § 14-10 did not contain history notation and is presumed derived from the original codification.

83 (Popup)
Editor's Note: An ordinance of April 28, 1981, effective July 1, 1981, repealed Ch. 15A, "Historic Valley Park Commission," §§ 15A-1--15A-6, derived from § 2 of an ordinance adopted Oct. 8, 1974.

84 (Popup)
Editor's Note: An ordinance of April 28, 1981, effective July 1, 1981, repealed Ch. 15A, "Historic Valley Park Commission," §§ 15A-1--15A-6, derived from § 2 of an ordinance adopted Oct. 8, 1974.

85 (Popup)
Editor's Note: An ordinance of April 28, 1981, effective July 1, 1981, repealed Ch. 15A, "Historic Valley Park Commission," §§ 15A-1--15A-6, derived from § 2 of an ordinance adopted Oct. 8, 1974.

86 (Popup)
Editor's Note: An ordinance of April 28, 1981, effective July 1, 1981, repealed Ch. 15A, "Historic Valley Park Commission," §§ 15A-1--15A-6, derived from § 2 of an ordinance adopted Oct. 8, 1974.

87 (Popup)
Editor's Note: An ordinance enacted April 28, 1981, effective July 1, 1981, repealed Ch. 16, concerning plumbing, which comprised §§ 16-1--16-5. The deleted provisions derived from an ordinance of Sept. 14, 1966.

88 (Popup)
Editor's Note: An ordinance enacted April 28, 1981, effective July 1, 1981, repealed Ch. 16, concerning plumbing, which comprised §§ 16-1--16-5. The deleted provisions derived from an ordinance of Sept. 14, 1966.

89 (Popup)
Editor's Note: An ordinance adopted April 28, 1981, effective July 1, 1981, repealed §§ 17-1--17-13, comprising Ch. 17, "Police Department." The deleted provisions derived from several sections without history notes, and from ordinances enacted Jan. 25, 1966; May 24, 1966; April 11, 1972; July 23, 1974; Nov. 28, 1978; May 8, 1979.

90 (Popup)
Editor's Note: An ordinance adopted April 28, 1981, effective July 1, 1981, repealed §§ 17-1--17-13, comprising Ch. 17, "Police Department." The deleted provisions derived from several sections without history notes, and from ordinances enacted Jan. 25, 1966; May 24, 1966; April 11, 1972; July 23, 1974; Nov. 28, 1978; May 8, 1979.

91 (Popup)
Cross references--Administration, Ch. 2, chief procurement officer, § 2-155 et seq.

92 (Popup)
Cross reference--Noisy vehicles generally, § 13-4.

93 (Popup)
Editor's Note: See also § 13-12, Dropping or leaking load, § 14-3.1, Drinking or possessing alcoholic beverages in public places, § 14-10, Spitting on sidewalks, Ch. 15, Litter, § 15-7.1, Throwing snow or ice into streets, § 15-7.2, Washing vehicles in streets, and §§ 15-19 through 15-20, gutter discharges and drainage into streets and sidewalks. For statutory provisions on streets, generally, see MGL c. 81 et seq.

94 (Popup)
Cross references--Dropping or leaking load, § 13-12; drinking or possessing alcoholic beverages in public places, § 14-3.1; spitting on sidewalks, § 14-10, litter, Ch. 15; throwing snow and ice into streets, § 15-7.1; washing vehicles in streets, § 15-7.2; gutter discharges and drainage into streets and sidewalks, §§ 15-19, 15-20.
State law reference--Streets generally, G.L., C. 81 et seq.

95 (Popup)
Editor's Note: Section 21-7, relating to display or sale of merchandise on streets or sidewalks, was repealed by an ordinance adopted Aug. 9, 1983.

96 (Popup)
Editor's Note: An ordinance adopted June 14, 1988, (No. 9625-5), deleted former §§ 21-14--21-20 relative to throwing various substances into the streets and sidewalks. Former §§ 21-14--21--20 did not contain history notation and are presumed derived from the original codification.

97 (Popup)
Editor's Note: For law of the commonwealth authorizing the City to regulate coasting, see MGL c. 85, §§ 10, 10A.

98 (Popup)
Editor's Note: As to discharging firearms in built-up areas of the City, see § 14-5 of this volume.

99 (Popup)

Editor's Note: For law of the commonwealth as to signs and other structures projecting over ways, see MGL c. 85, §§ 8, 9.

100 (Popup)
State law reference--Law of the commonwealth on poles and wires generally in cities, G. L., C. 166, § 30 et seq.

101 (Popup)
For law of the Commonwealth relating to this subject, see G. L., C. 82, § 17 et seq.

102 (Popup)
For law of the Commonwealth as to subdivision control law, see G. L., C. 41, §§ 81K to 81GG.

103 (Popup)
See G. L., C. 80.

104 (Popup)
Editor's Note: For regulations in connection with bus stops, see § 13-53 of this volume.

105 (Popup)
Editor's Note: For regulations as to taxicab stands, see § 13-54 of this volume.

106 (Popup)
Editor's Note: See also Ch. 12, Licenses and Permit Generally.

107 (Popup)
Editor's Note: See also Ch. 12, Licenses and Permits Generally.

108 (Popup)
Editor's Note: For statutory provisions authorizing the City to license and regulate buses, see MGL c. 159A, § 1 et seq.

109 (Popup)
Editor's Note: See also Ch. 12, Licenses and Permits Generally.

110 (Popup)
As to throwing dead animals, etc, into streams, etc, see § 14-3 of this volume. As to pollution of waters under the jurisdiction of this park and recreation commission, see § 15-17.

111 (Popup)
For law of the Commonwealth authorizing the city to sell water to other municipalities, see G. L., C. 40, § 38.

112 (Popup)
Editor's Note: Former Sec. 25-7, Penalties, as amended or added by an ordinance of 4-9-1985, was repealed by an ordinance of 2-9-1999, which ordinance also provided for the renumbering of

Sections 25-8 through 25-11 as Sections 25-7 through 25-10, respectively.

113 (Popup)
Cross reference--Administration, Ch.2.

114 (Popup)
Cross references--Planning Board, §2-80 et seq.; Building Code, Ch. 3; streets and sidewalks, Ch. 21; subdivisions, Ch. 22.

115 (Popup)
Editor's Note: An ordinance of Dec. 12, 1978, amended § 3A by ardending the Urban Renewal Plan, Code R-213. The amendments are not set out herein, but may be found on file with the city clerk.

116 (Popup)
Editor's Note: Former § 3C (3C.1-3C.3), relative to flood hazard district regulations as amended by an ordinance enacted July 1, 1981, was deleted by an ordinance adopted Aug. 14, 1990. Provisions regarding the Floodway District and Floodplain District are currently set out in §§ 4 and 4A.

117 (Popup)
Cross reference-Affordable Housing District, this Zoning Appendix, § 6A.

118 (Popup)
Editor's Note: Section 1 of an ordinance adopted 8-14-1990 deleted former § 12 (12.1-12.4), relative to nonconforming buildings and uses, and enacted a new § 12 (12.1-12.4) to read as herein set out. The provisions of former § 12 were amended by § III(12) of an ordinance enacted 6-27-1978 and an ordinance enacted 5-8-1979.

119 (Popup)
Editors Note: An ordinance of May 8, 1979, repealed §§ 13B.6.3-13B.6.7, and added in lieu thereof new §§ 13B.6.3, 13B.6.4. The repealed provisions concerned issuance procedures for special permits, and derived from an ordinance of June 27, 1978.

120 (Popup)
Editor's Note: Section 1 of an ordinance adopted Aug. 14,1990, deleted former § 14, relative to signs, in its entirety and enacted a new § 14 to read as herein set out, The provisions of former § 14 derived from ordinances adopted July 27, 1976; March 8, 1988; May 8, 1979; July 26, 1988; and March 28, 1989.