

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending *The Code of Ordinances, City of Lowell, Massachusetts*, with respect to **Chapter 56**, entitled *Personnel*, is hereby amended as follows:

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

**I**

*The Code of Ordinances City of Lowell, Massachusetts*, ("the Code") adopted by the City Council on December 23, 2008, as amended, is hereby further amended with respect to **Chapter 56**, entitled *Personnel* by amending the following section:

By adding to Article II., §56-8 a new subsection (H) entitled: **Indemnification**

“The City shall indemnify and save harmless members of the City Council, the Mayor, City Manager, department heads and all its employees, from personal financial loss and expenses, including legal fees, costs, and other related expenses or reasonable charges, if any, in an amount not to exceed \$1,000,000.00 arising out of any claim, action, award, compromise, settlement or judgment by reason of an intentional tort or by reason of any act or omission which constitutes a violation of the civil rights of any person under federal or state law if such aforementioned official or employee at the time of such intentional tort or act or omission was acting within the scope of his or her official duties of employment; provided, however, that such aforementioned official or employee shall provide reasonable cooperation to the city in the negotiation, investigation and defense of any claim or action brought as a result of such intentional tort or act or omission.

The defense and/or settlement of any such claim shall be undertaken or negotiated by the city solicitor, the city solicitor's agent or designee. However, if the city solicitor determines that a conflict of interest has arisen or is likely to arise by the mutual defense of the city and the officer(s) or employee(s) in question, the officer(s) or employee(s) shall not be defended by the city solicitor, the city solicitor's agent or designee, but shall seek outside counsel for such defense. The expense incurred by the official or employee for outside counsel shall be borne by the city unless the mayor and/or city council shall deem such legal fees to be unreasonable, in which event such legal fees shall be subject to the fee arbitration procedure of the Massachusetts Bar Association.

Nothing in this section shall be deemed to limit the effect of any indemnification statute applicable to the city at the time of any such intentional tort or act or omission. This section shall apply to any settlement or judgement made in compliance with this section on or after the date this section is approved."

## II

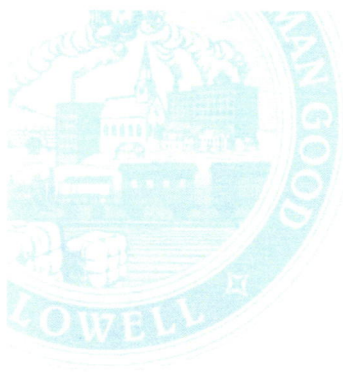
All provisions of the Code of the City of Lowell, as amended, which are not inconsistent with this Ordinance, shall continue in effect, but all provisions of said Code inconsistent herewith are repealed.

## III

This Ordinance shall take effect upon its passage in accordance with the provisions of Chapter 43 and 40A of the General Laws of the Commonwealth of Massachusetts.

APPROVED AS TO FORM:

/s/Hannah Pappenheim  
Hannah Pappenheim  
Assistant City Solicitor



Kevin J. Murphy  
City Manager

January 26, 2018

Mayor William J. Samaras  
and  
Members of the City Council

**Re: Amendment to Personnel Ordinance**

Dear Mayor Samaras and Members of the City Council:

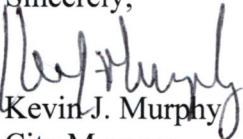
Please find enclosed a proposed amendment to Chapter 56, entitled **Personnel**, of *The Code of Ordinances, City of Lowell, Massachusetts*.

This proposed amendment grants to ordinance employees (non-union employees) indemnification protection that mirrors the same protections afforded to other city employees under contract and the protections afford in M.G.L. c. 258.

The Law Department has prepared a Vote to authorize passage of this proposed ordinance amendment.

Should you have any questions please do not hesitate to contact the City Solicitor, Christine P. O'Connor at 978-674-4050; the Human Relations Manager, Mary Callery, at 978-674-4105; or me.

Sincerely,

  
Kevin J. Murphy  
City Manager

KJM/kjr

Enc.

cc: Christine P. O'Connor, City Solicitor  
Mary Callery, Human Resources Manager