

SECTION 22

SEXUAL AND OTHER ILLEGAL OR IMPROPER MISCONDUCT AND HARASSMENT POLICY*

Approved 04/15/24
Replaces 07/18/15

22.01 PURPOSE

The purpose of this policy is to make all employees of the Town aware that it is the policy of the Town that sexual, racial or other forms of illegal or improper harassment and misconduct will not be tolerated.

22.02 STATEMENT OF POLICY

The Town is committed to maintaining a work environment free of harassment based upon race, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, disability, genetic information, religion, age, veteran status, and marital status. The Town will not tolerate the inappropriate harassment of any of its employees, officials, or any other individual who does business with the Town. This prohibition of harassment applies to all officials, employees, representatives, vendors, or any other individual doing business with the Town. It is the affirmative responsibility of all Town personnel for maintaining a workplace that is free from harassment and intimidation and the failure to do so will subject an employee to disciplinary action.

The Town is committed to promptly and thoroughly investigating all complaints of inappropriate harassment as set forth in this policy. If, after a thorough investigation, it is determined that inappropriate harassment has occurred in violation of this policy, immediate and appropriate disciplinary action, up to potential discharge, will be taken to promptly end the harassment. Appropriate follow-up steps will also be taken where necessary to ensure that the harassment ceases and does not re-occur.

In addition, the Town will not allow any retaliation against any employee who raises a concern about improper or illegal harassment or participates in an investigation involving improper or illegal harassment and tells the truth to the best of his knowledge and belief.

22.03 EXAMPLES OF PROHIBITED SEXUALLY RELATED CONDUCT

The Town considers the following conduct to be examples of conduct, which violates its prohibition of sexual harassment.

- A. Unwelcome physical assaults or touching of a sexual nature, including:
 - 1. Rape, sexual battery, molestation, or attempts to commit such acts.
 - 2. Intentional physical contact which is sexual in nature such as touching, pinching, patting, grabbing, rubbing, hugging, or poking another employee's body.
- B. Unwelcome sexual advances, propositions, and other sexual comments, such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience directed at or made in the presence of an employee who has indicated in any way that such conduct in his presence is unwelcome.
- C. Job actions related to sexual matters such as:
 - 1. Preferential treatment for submitting to sexual activity, including soliciting or attempting to solicit an employee to engage in sexual activity for compensation or reward.
 - 2. Threatening to, or actually making an employee's job more difficult, or taking away any benefit or privilege to entice an employee to submit sexually.
- D. Display of sexually related material, such as:
 - 1. Pictures, posters, computer screensavers, calendars, graffiti, objects, promotional material, reading or other material of a sexually suggestive or sexually demeaning nature is not permitted in the workplace.
 - 2. Reading or otherwise publicizing in the work environment materials that are sexually revealing, pornographic, or sexually demeaning.

22.04 EXAMPLES OF OTHER ILLEGAL OR IMPROPER HARASSMENT

In addition to inappropriate sexual harassment, the Town also prohibits harassment on the basis of race, color, national origin, ethnicity, sexual orientation, disability, genetic information, religion age, veteran status, gender identity, and marital status. Any conduct of an offensive or harassing nature and which is based on any of these characteristics will not be tolerated. Such prohibited conduct includes, but is not limited to:

- 1. Derogatory, critical, offensive or uncomplimentary jokes, slurs, epithets, comments, displays, posters, other written materials based on race, color, national origin, ethnicity, sex, gender, pregnancy, sexual orientation, gender

identity, disability, genetic information, religion age, military service, veteran status, and marital status.

2. Any physical conduct taken against another individual because of his or her race, color, national origin, ethnicity, sex, gender, pregnancy, sexual orientation, gender identity, disability, genetic information, religion age, military service, veteran status, and marital status.
3. Teasing or making fun of another individual's ethnicity, accent, cultural or religious beliefs or practices, mental or physical disabilities, medical limitations, and other similar characteristics.

Additionally, sexual or other inappropriate harassment may occur when the intended target of the conduct is not offended, but others find the conduct to be intimidating, hostile, or offensive. This policy prohibits inappropriate harassment regardless of whether those involved or who witness the conduct find it offensive or unwelcome.

The above examples are not to be considered a comprehensive list of prohibited conduct, but set forth examples of the types of conduct which is prohibited.

22.05 MAKING COMPLAINTS OF SEXUAL OR OTHER ILLEGAL OR IMPROPER HARASSMENT OR RETALIATION

- A. Anyone who believes he or she has been the subject of harassment or who witnesses harassment prohibited by this policy must immediately report it to his immediate supervisor, his Director, Human Resources Manager, Town Manager, or any member of the Town Commission.
- B. If, after reporting the harassment as outlined above, the harassment continues or any further incidents of inappropriate behavior occur, the complainant must immediately report the continuing harassment. Since the Town may not be aware that the harassment is ongoing or that its initial handling of the matter has not satisfactorily resolved the issues or caused the offending conduct to cease, employees are required to report any continuing harassment or new incidents of misconduct even where he or she has previously reported a complaint.
- C. On receiving a complaint of inappropriate harassment or retaliation, the Town will promptly investigate the allegation and take any action deemed appropriate based on the results of the inquiry. Although each investigation will necessarily vary depending on the nature of the allegations and the circumstances involved, the investigation of a complaint will ordinarily include conferring with the parties involved and any named or apparent witnesses and reviewing pertinent documents, e-mail communications, pictures or any other relevant physical evidence. The Town is committed to conducting all investigations in a fair and impartial manner. If, after a thorough investigation, it is determined that prohibited harassment or

retaliation has occurred, immediate and appropriate action will be taken to promptly remedy any improper conduct and to ensure that no prohibited actions occur in the future. Such action may include discipline of anyone determined to be in violation of this policy, remedial training concerning the Town's policies and procedures relating to prohibited harassment and retaliation, and any other measure determined to be necessary for the effective enforcement of this policy.

D. All persons who participate in such an investigation shall be protected from coercion, intimidation, retaliation, interference, or discrimination for filing a complaint or participating in an investigation. Prohibited retaliation includes, but is not limited to:

- Shunning and avoiding an individual who reports harassment, discrimination or retaliation;
- Express or implied threats or intimidation intended to prevent an individual from reporting harassment, discrimination or retaliation; or,
- Denying employment benefits because an applicant or employee reported harassment, discrimination or retaliation or participated in the reporting and investigation process.

An employee who believes he or she has been subjected to retaliation on the basis of having filed a complaint or having participated in an investigation, must immediately report it pursuant to the complaint process outlined above. Any employee determined to have retaliated against another individual in violation of this policy will be subject to disciplinary action, up to and including dismissal.

22.06 THE PREVENTION OF HARASSMENT IN THE WORKPLACE IS EVERY EMPLOYEE'S RESPONSIBILITY

All personnel are responsible for ensuring compliance with this policy and maintaining a workplace that is free of harassment and intimidation. If any person experiences or witnesses harassment in the workplace, he or she has an affirmative obligation to report the harassment to one of the individuals designated above. Employees who witness inappropriate harassment and fail to report it are subject to disciplinary action, up to and including dismissal. However, an employee is not required or expected to report complaints to the person he or she believes is harassing against him or her. However, in such cases, the employee is obligated to report the inappropriate conduct to one of the other employees identified above.

Upon receiving a report of harassment, supervisors are responsible for immediately reporting it to Human Resources Manager, without regard to whether the harassment involves the supervisor's subordinate employee(s). Failure to report will be grounds for discipline.

Additionally, supervisors, together with the Human Resources Manager, are responsible for ensuring that their employees are properly trained on the Town's policies concerning prohibited harassment, discrimination, and retaliation.

22.07 BAD FAITH CLAIMS OF SEXUAL OR ILLEGAL OR IMPROPER HARASSMENT

Bad faith claims of sexual or other illegal or improper harassment are claims made when the person making the claims knows the claim is false but makes it anyway. Persons who make bad faith claims under this subsection will be subjected to disciplinary action up to and including termination.