

## Sexual Harassment Policy

### SEXUAL HARASSMENT:

Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under The Town of Madisonville's Anti-Harassment Policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Also, when submission to or rejection of such conduct is used as the basis for employment decisions, or such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment."

There are two types of sexual harassment:

- **"QUID PRO QUO"** harassment, where submission to harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions and better working hours are directly linked to compliance with sexual advances. Therefore, only someone with the authority to grant such benefits, such as a supervisor, can engage in quid pro quo harassment. Examples: A supervisor promising an employee a raise if he/she goes on a date with him/her; a manager telling an employee he/she will fire him/her if he/she does not have sexual relations with him/her.
- **"HOSTILE WORK ENVIRONMENT,"** where the harassment creates an offensive and unpleasant working environment. A hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees or customers. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials or even unwelcome physical contact as a regular part of the work environment. Texts, e-mails, cartoons or posters of a sexual nature; vulgar or lewd comments or jokes; or unwanted touching or fondling all fall into this category.

Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- Is made explicitly or implicitly a term or condition of employment.
- Is used as a basis for an employment decision.
- Unreasonably interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines, not exclusive when determining whether there has been a violation of this Policy:

- Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any

type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or “kidding” that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.

- Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, e-mail, photos, text messages, tweets and Internet postings; or other form of communication that is sexual in nature and offensive.
- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing and fondling and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, noncoercive interactions between employees, including men and women, that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

#### RETALIATION:

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this Policy. Any person who is found to have violated this aspect of the Policy will be subject to sanctions up to and including termination of employment.

#### COMPLAINT PROCESS:

The Town will courteously treat any person who invokes this complaint procedure, and will handle all complaints swiftly and confidentially to the extent possible, considering the need to take appropriate corrective action. Lodging a complaint will in no way be used against the employee or have an adverse impact on the individual’s employment status. Because of the damaging nature of harassment to the victims and to the entire workforce, aggrieved employees are strongly urged to use this procedure. However, filing groundless or malicious complaints is an abuse of this Policy and will be treated as a violation.

## CONFIDENTIALITY:

During the complaint process, the confidentiality of the information received, the privacy of the individuals involved, and the wishes of the complaining person will be protected to as great a degree as is possible. The expressed wishes of the complaining person for confidentiality will be considered in the context of the Town's legal obligation to act on the charge and the right of the charged party to obtain information. In most cases, however, confidentiality will be strictly maintained by the Town and those involved in the investigation. In addition, any notes or documents written by or received by the person(s) conducting the investigation will be kept confidential to the greatest extent possible, and according to any existing state or federal law.

## COMPLAINT PROCEDURE:

The Town of Madisonville has established the following procedure for lodging a complaint of harassment, discrimination or retaliation. The Town will treat all aspects of the procedure confidentially to the extent reasonably possible.

- 1) An individual who feels harassed, discriminated or retaliated against may initiate the complaint process by filing a complaint in writing with a Manager or Supervisor, Town Clerk, or Mayor. No formal action will be taken against any person under this Policy unless the Mayor has received a written and signed complaint containing sufficient details to determine if the Policy may have been violated. The complainant (the employee making the complaint) may obtain the complaint form from the Mayor upon request. If a supervisor or manager becomes aware that harassment or discrimination is occurring, either from personal observation, or as a result of an employee's forthcoming, the supervisor or manager should immediately report it to the Town Clerk.
- 2) Upon receiving a complaint or being advised by a supervisor or manager that violation of this Policy may be occurring, the Town Clerk will notify the Mayor and review the complaint with the Town's legal counsel.
- 3) Within five working days of receiving the complaint, the Town Clerk or Mayor will notify the person(s) charged [hereafter referred to as "respondent(s)"] of a complaint and initiate the investigation to determine whether there is a reasonable basis for believing that the alleged violation of this Policy occurred.
- 4) During the investigation, the Mayor, together with legal counsel or other management employees, will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.
- 5) Within 15 business days of the complaint being filed (or the matter being referred to the Town Clerk), the Mayor or other person conducting the investigation will conclude the investigation and submit a written report of his or her findings.
- 6) If it is determined that harassment or discrimination in violation of this Policy has occurred, the Mayor will recommend appropriate disciplinary action. The

appropriate action will depend on the following factors: a) the severity, frequency and pervasiveness of the conduct; b) prior complaints made by the complainant; c) prior complaints made against the respondent; and d) the quality of the evidence (e.g., first-hand knowledge, credible corroboration).

- 7) If the investigation is inconclusive or if it is determined that there has been no violation of Policy, but potentially problematic conduct may have occurred, the Mayor may recommend appropriate preventive action.
- 8) Within five days after the investigation is concluded, the Mayor will meet with the complainant and the respondent separately, notify them of the findings of the investigation, and inform them of the action being recommended.
- 9) The complainant and the respondent may submit statements to the Mayor challenging the factual basis of the findings. Any such statement must be submitted no later than five working days after the meeting with the Mayor in which the findings of the investigation are discussed.
- 10) Within 10 days from the date the Mayor meets with the complainant and respondent, the Mayor will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the Town Attorney and other management staff as may be appropriate, and recommend what action, if any, will be taken. The Mayor will report his decision to the complainant, the respondent and the appropriate management assigned to the department(s) in which the complainant and the respondent work. The Mayor's decision will be in writing and will include findings of fact and a statement for or against disciplinary action. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.

Each employee of the Town has to take yearly sexual harassment training and the certificate of completion is filed by the Town Clerk.