

Introduced March 19, 2019

**ORDINANCE NO. 2019-03-01**

An ordinance adopting a certain policy relative to sexual harassment.

**WHEREAS**, the Town of Pearl River desires to adopt by ordinance a certain policy relative to sexual harassment; and

**WHEREAS**, said policy considered by the Mayor and Board of Aldermen to be best practice in the conducting of Town business;

**BE IT THEREFORE ORDAINED**, by the Board of Aldermen of the Town of Pearl River that it hereby approves and adopts a certain policy relative sexual harassment which are attached hereto and made a part hereof;

**BE IT FUTHER ORDAINED**, that this ordinance shall become effective upon adoption.

This ordinance having been submitted to a vote and the vote thereon was as follows:

YEAS: 3

NAYS: 0

ABSENT: 2

ABSTENTIONS: 0

**ADOPTED**, this 16<sup>th</sup> day of April, 2019.



Cheryl K. Schultheis, Town Clerk



Clarence David McQueen, Mayor

# **SEXUAL HARASSMENT POLICY FOR THE TOWN OF PEARL RIVER**

## **I. STATEMENT OF POLICY**

Employees of the Town of Pearl River ("Town") have an expectation and right to be treated with respect and dignity, and to work in a professional environment free of sexual harassment. To accomplish this, the TOWN prohibits and will not tolerate sexual harassment or any behavior of a sexual nature that intimidates, exploits, insults, demeans, disrespects, or embarrasses any TOWN employee. Unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment and shall not be tolerated. This policy specifically addresses sexual harassment and behavior of a sexual nature in the workplace which are collectively referred to as "sexually inappropriate behavior". Prevention and elimination of sexually inappropriate behavior requires the personal involvement and commitment of every TOWN employee. Through this policy and related training requirements, the TOWN encourages employees who experience, observe or are informed of such behavior to promptly initiate the reporting process set forth in this policy. Employees may be assured that the TOWN will objectively and thoroughly investigate reports; implement preventive measures to protect against recurrence; impose corrective action to address substantiated violations; and protect complainants and employees involved in the investigative process from any form of harassment, reprisal, or retaliation.

## **II. PURPOSE**

Through this policy and the mandatory training required of all employees, the TOWN seeks to:  
Unequivocally state intolerance for sexually inappropriate behavior.

Identify the broad scope of such prohibited behavior.

Establish an effective, uniform reporting process.

Establish an effective, uniform investigative process.

Trigger prompt action to protect against recurrence of the prohibited behavior.

Ensure resolution that imposes appropriate corrective action.

Protect complainants and employees involved in the investigative process from harassment, reprisal, or retaliation.

Respect confidentiality and the privacy rights of employees.

This policy establishes a procedure to administratively report and address complaints of sexually inappropriate behavior. It is not in any way intended to replace or supersede the statutory or regulatory rights regarding sexual harassment available to employees under federal and state law, including Title VII of the Civil Rights Act (42 U.S.C. § 2000e et seq.) and the Louisiana Employment Discrimination Law (La. R.S. 23:301 et seq.). Specific timelines and requisites of law apply to filing a complaint with the Equal Employment Opportunity Commission (EEOC) or the Louisiana Commission on Human Rights (LCHR).

### **III. APPLICABILITY**

A. This policy applies to all TOWN employees regardless of position, status, or authority. This includes full-time, part-time, seasonal, and temporary employees. The prohibitions of this policy are equally applicable to appointing authorities, executive management, administrators, directors, managers, supervisors, staff, students, and interns.

B. This policy applies not only to the customary workplace and work locations where TOWN employees may be assigned, but also prohibits such behavior while traveling to a work location, at conferences, workshops, trainings, business trips, and business-related social events.

Additionally, the behavior prohibited by this policy applies to off-duty, off-premises behavior that impacts the workplace.

C. Third-party sexual harassment - Sexual harassment complaints against non-TOWN employees will be referred to the appropriate authorities and/or handled as TOWN management deems appropriate.

### **IV. POSTINGS**

This policy is available for review by all employees at all times on TOWN's website at: <http://www.pearlriverla.com>. Notices related to workplace harassment and discrimination are conspicuously posted at TOWN work locations.

### **V. EMPLOYEE RELATIONS DESIGNEE**

Sexual harassment complaints will be handled within the Mayor's Office or Police Chief's Office, as applicable, by the Mayor or Chief or their designee. The Mayor, Chief or designee is available to discuss the content of this policy, answer questions related to the reporting process, receive complaints, and coordinate the investigative process.

### **VI. TRAINING**

To support this policy, TOWN requires all employees to successfully complete training on this policy upon hiring and on a continuing basis thereafter. At a minimum, TOWN mandates the following training for its employees:

Upon hiring, all new employees will be provided a copy of this policy and instructed to carefully review it. In addition, all current employees are required to review this policy.

Within ninety (90) days of the hiring date, all new employees are required to complete the most recent training on sexual harassment. Certification of successful completion will be documented subsequent to the training.

All employees, on an annual basis thereafter, are required to complete the most recent training on sexual harassment. Certification of successful completion will be documented subsequent to the training.

Supervisors and any persons designated by the Town to accept or investigate a sexual harassment complaint are required to complete additional education and training on sexual harassment for supervisors on an annual basis. Certification of successful completion will be documented subsequent to the additional training.

## **VII. PROHIBITED CONDUCT**

A. Unwelcome sexual advances, requests for sexual favors and other verbal, physical or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct explicitly or implicitly affects an employee's employment, unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment. Sexual harassment shall not be tolerated.

B. Prohibited conduct relative to sexual harassment includes but is not limited to the following:

1. Unwelcome physical contact, including touching on any part of the body, kissing, hugging or standing close enough to make another person uncomfortable;
2. Requests for sexual favors either directly or indirectly (for example, requiring a subordinate employee to go out to lunch or to have a drink may be perceived as a request for sexual favors under some circumstances, especially if the conduct has no business purpose);
3. Requiring sexual favors as a condition of employment, obtaining a raise, obtaining new duties, a better office or any type of advancement in the workplace;
4. Threatening dismissal or unfairly evaluating performance in retaliation for rejection of sexual advances;
5. Sexual flirtations, advances or propositions;
6. Graphic comments about an individual's body;
7. Sexually degrading words to describe an individual;
8. The display in the workplace of sexually suggestive objects, pictures, or writings; or,
9. Other harassment that could rise to the level of sexual harassment.

## **VIII. REPORTING PROCEDURE**

A. An employee experiencing unwelcome behavior may choose to tell the offender to cease the behavior. Doing so may be sufficient to prevent recurrence. TOWN does not require employees to do so, and certainly does not require that this be done before using the reporting procedure provided in this policy. However, if the behavior continues, the concern should be reported promptly.

B. In order that complaints may be investigated timely and effectively, employees are strongly encouraged to report sexual harassment as soon as possible. TOWN does not impose a deadline for reporting sexual harassment, but immediate reporting is ideal.

C. The initial report need only convey the occurrence of words or actions that are offensive and need not provide details. This report can be verbal (in person or via telephone) or in writing (letter, memo, email, text). The TOWN does not require that the employee use a specific form or adhere to a rigid reporting protocol.

D. The report may be made to the employee's direct supervisor. However, regardless of reason, if the employee prefers to not involve his or her supervisor, the report may be made to directly to the Mayor, Chief, or designee, as applicable. Supervisory personnel receiving a report of sexually inappropriate behavior are required to immediately inform the Mayor, Chief of designee, as applicable. Any employee receiving a report of sexually inappropriate behavior (such as from a co-worker) are strongly encouraged to report the behavior to any supervisor or to the Mayor, Chief, or designee, as applicable.

E. Anonymous complaints are discouraged; however, if an anonymous complaint is submitted, it should contain as much detail as possible including the names of the accused and all witnesses,

the locations, dates, times, and description of all behaviors experienced, and any previous reports of similar behavior to management. Without this level of detail, the ability to conduct a thorough investigation may be impeded.

## **IX. INVESTIGATION OF COMPLAINTS**

A. All reports and complaints of sexually inappropriate behavior will be directed to the Mayor, Chief, or designee, as applicable who shall assess the information provided. The investigation will be conducted expeditiously, professionally, and with due regard for the rights of all involved. To the extent allowed by law, the investigation will be conducted in a confidential manner. To preserve the integrity of the investigative process, employees will be instructed that the complaint and all information provided during the interview are to remain confidential. Employees are prohibited from obstructing or interfering with the investigation, which includes questioning or confronting any employee participating in the investigation.

B. The Mayor, Chief, or designee, as applicable in consultation with the Town legal staff, shall conduct a preliminary assessment of the information provided to determine whether action should be taken to prevent further occurrence of the offensive behavior. For example, it may be appropriate to authorize leave or temporarily reassign personnel. The appropriate supervisor will be apprised of the general nature of the complaint and any preliminary action to be taken with the utmost confidentiality.

C. The investigation may begin with an interview of the complainant who will be required to provide details to facilitate the investigative process, such as the behavior complained of, the date, time, and location of the occurrence, the identity of witnesses, and any writings, records, logs, recordings, pictures, or other documentation supporting the complaint. Other employees possessing relevant information may also be interviewed.

D. All employees called upon to participate in the investigation are required to fully cooperate and provide truthful responses. Employees do not have the option of remaining silent or declining to get involved. Those questioned may be required to prepare a written statement or provide a recorded statement. Employees are hereby informed that polygraph examinations may be employed as an investigative tool.

E. Upon completion of the investigation, the Mayor, Chief, or designee, as applicable in consultation with Town legal staff, will document whether the complaint of sexual harassment is substantiated or unsubstantiated and provide recommendations for resolution.

F. Complainants may be assured that any employee found, after investigation, to have engaged in sexual harassment or other inappropriate behavior of a sexual nature will be subject to corrective action. Corrective actions may include counseling, reprimand, suspension, reduction in pay, demotion, or dismissal.

G. In conjunction with such corrective actions, other appropriate measures, including additional training, relocation, reassignment, job restructuring, etc., may also be utilized to protect against the recurrence of the inappropriate behavior.

H. Employees must understand that despite the best efforts and thoroughness of the investigative process, not all complaints can be substantiated. This does not indicate, however, that the complaint was contrived or made in bad faith. As such, employees are encouraged to file good faith complaints without regard for the ultimate outcome.

## **X. COMPLAINT RESOLUTION**

Upon conclusion of the investigation, the complainant and accused will be apprised of whether the complaint was substantiated or unsubstantiated. The Mayor's or Chiefs decision is final and concludes TOWN's internal administrative investigative process. Regardless of the outcome, the complainant has the option of pursuing a claim under state or federal law. Initiation of such a claim is not dependent upon the outcome nor completion of TOWN's administrative investigation.

To initiate a claim under federal or state law, employees are referred to the Equal Employment Opportunity Commission and the Louisiana Commission on Human Rights:

EEOC District Office LCHR

Hale Boggs Federal Building 1001 N. 23rd Street, Suite 268

500 Poydras Street, Suite 809 Post Office Box 94094

New Orleans, Louisiana 70130 Baton Rouge, Louisiana 70804

800-669-4000 (Voice) 225-342-6969 (Voice)

504-589-2958 (TDD) 888-241-0859 (TDD)

504-595-2844 (Fax) 225-342-2063 (Fax)

<https://www.eeoc.gov/> <http://gov/page/lchr>

## **XI. RETALIATION STRICTLY PROHIBITED**

The TOWN maintains an affirmative duty to protect its employees from harassment, reprisal, or retaliation. This protection extends to any employee making a good faith complaint of sexually inappropriate behavior, as well as those employees providing information or participating in the investigative process. Employees can be assured that if a complaint is made and an investigation reveals that harassment, retaliation or reprisal has occurred, disciplinary action may be imposed on the offender, up to and including dismissal.

## **XII. RESPONSIBILITY**

It is the responsibility of all employees to ensure compliance with this policy. Complaints must be truthful and made in good faith. Cooperative participation and candor in the investigative process are mandatory.

## **XIII. VIOLATIONS**

The TOWN will aggressively address violations of this policy. After investigation and satisfaction of due process requirements, corrective action, including disciplinary action up to and including termination, may be imposed for the following actions, including but not limited to:

Failure to comply with mandatory training requirements.