

ORDINANCE NO. 3916

AN ORDINANCE TO AMEND THE CITY ADMINISTRATIVE CODE, AND DECLARING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AS PROVIDED BY LAW.

WHEREAS, Ordinance #2891 created the City of Kewanee Administrative Code to establish clear and consistent policy and procedures for the human resources of the City; and

WHEREAS, Ordinance #3436 amended Ordinance #2891 by creating Appendix D – Sexual Harassment Policy; and

WHEREAS, Revisions are warranted as a result of change to the organization as well as demands upon it, and in order to best achieve desired organizational goals and ultimately the service needs of the community; and

WHEREAS, Public Act 100-0554 has established minimum requirements for a municipal sexual harassment policy.

BE IT ORDAINED BY THE CITY COUNCIL OF KEWANEE THAT:


Section 1 The City Council hereby amends Appendix G - Sexual Harassment Policy of the Kewanee Administrative Code by inserting text shown as underline and omitting text shown as ~~strike-through~~ as shown in the attached document.

Section 2 This Ordinance will be in full force and effect upon its passage

Adopted by the Council of the City of Kewanee, Illinois this 26th day of December 2017

ATTEST:


Melinda Edwards, City Clerk


Steve Looney, Mayor

RECORD OF THE VOTE	Yes	No	Abstain	Absent
Mayor Steve Looney	X			
Council Member Andrew Koehler	X			
Council Member Chris Colomer	X			
Council Member Steve Faber	X			
Council Member Michael Yaklich	X			

SEXUAL HARASSMENT POLICY

STATEMENT OF POLICY

The City of Kewanee is committed to maintaining a work environment that encourages and fosters appropriate conduct among colleagues and respect for individual values and sensibilities. Accordingly, the City's officers and administration are committed to enforcing its Sexual Harassment Policy at all levels within the workplace and creating an environment free from discrimination of any kind, including sexual harassment.

Sexual harassment, according to the Equal Employment Opportunity Commission and the Illinois Department of Human Rights, and for purposes of this policy, consists of unwelcome sexual advances, requests for sexual favors or other verbal, non-verbal or physical acts of a sexual or sex-based nature, where one or more of the following exists:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) an employment decision affecting an employee is based on that individual's acceptance or rejection of such conduct; or
- (3) such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment. For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship.

Sexual harassment can occur between men and women, or between members of the same gender. Such conduct is unlawful under Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination on the basis of race, color, sex, age, religion or national origin.

It is also unlawful to retaliate in any way against anyone who has complained about sexual harassment or discrimination, whether that concern relates to harassment of or discrimination against the individual raising the concern or against another individual.

Sexual harassment affects the victim and other employees as well. Each incident of harassment contributes to a general atmosphere in which everyone suffers the consequences. Sexually-oriented acts or sex-based conduct have no legitimate business purpose. Where such conduct is directed by a supervisor (or someone in a management position) toward a subordinate, the former will be held to a higher standard of accountability because of the degree of control and influence he or she has or is perceived to have over the employment conditions and benefits of the subordinate.

PROHIBITED CONDUCT

Prohibited acts of sexual harassment can take a variety of forms ranging from subtle pressure for sexual activity or contact or physical contact. At times the offender may be unaware that his or her conduct is offensive or harassing to others. Examples of conduct which could be considered sexual harassment include:

- (a) persistent or repeated unwelcome flirting, pressure for dates, sexual comments or touching;
- (b) sexually suggestive jokes, gestures or sounds directed toward another or sexually oriented or degrading comments about another;
- (c) preferential treatment of an employee, or a promise of preferential treatment to an employee, in exchange for dates or sexual conduct; or the denial or threat of denial of employment, benefits or advancement for refusal to consent to sexual advances;
- (d) the open display of sexually oriented pictures, posters, or other material offensive to others;
- (e) retaliation against an individual for reporting or complaining about sexually harassing conduct.

All employees are encouraged to express displeasure at any conduct which might be sexually harassing, to tell the individual engaging in the conduct that it is unwelcome, to report that conduct, and to use the complaint procedure set forth in this policy.

III

COMPLAINT PROCEDURE

While the City encourages individuals who believe they are being harassed to firmly and promptly notify the offender that his or her behavior is unwelcome, the City also recognizes that power and status disparities between an alleged harasser and a target may make such a confrontation impossible. In the event that such informal, direct communication between individuals is either ineffective or impossible, or even when such communication has occurred, the following steps should be taken to report a sexual harassment complaint.

- A. Reporting of Incident: All employees are urged to report any suspected sexual harassment by another employee to their Department Head or the City Manager, except where that person is the individual accused of harassment. In that case, the complaint should be reported to the City Manager or City Clerk. If the aggrieved employee or other complainant prefers to report the suspected harassment to someone of the opposite gender from that of the Department Head or City Manager, the complaint can be reported to the City Clerk. The report may be made initially either orally or in writing, but reports made orally must be reduced to writing before an investigation can be initiated.
8. Investigation of Complaint: When a complaint has been reduced to writing, the City Manager or the individual informed pursuant to paragraph A above will initiate an investigation of the suspected sexual harassment within five (5) working days of notification, unless circumstances prevent completion of the investigation within that time, in which case the investigation will be completed as quickly as possible. If necessary, the City Manager may designate another supervisory or management employee of the opposite sex to assist him/her or the alternate individual in paragraph A in the investigation. If the City Manager is the subject of the investigation, the investigation will be conducted by the City Clerk with the assistance of the City Attorney. The investigation will include an interview with the employee(s) who made the initial report, the person(s) towards whom the suspected harassment was directed and the individual(s) accused of the harassment. Any other person who may have information regarding the alleged sexual harassment may also be interviewed.
- C: Report: The City Manager or designated person responsible for investigating the complaint shall prepare a written report within ten (10) working days from notification of the suspected harassment unless extenuating circumstances prevent him/her from doing so. The report shall include a finding that sexual harassment occurred, sexual harassment did not occur, or there is inconclusive evidence as to whether sexual harassment occurred. A copy of the report will be given to the employee(s) who made the initial report, the employee(s) to whom the suspected harassment was directed, and the employee(s) suspected of the harassment.
- D. Records: Confidentiality: Employees who report incidents of sexual harassment are encouraged to keep written notes in order to accurately record the offensive conduct. Every effort shall be made to keep all matters related to the investigation and various reports confidential. In the event of a lawsuit, however, the City advises that records it maintains and the complainant maintains may not be considered privileged from disclosure. Written records will be maintained for one (1) year from the date of the resolution unless new circumstances dictate that the file should be kept for a longer period;
- E. Appeals Process: If either party directly involved in a sexual harassment investigation is dissatisfied with the outcome or resolution, that individual has the right to appeal the decision. The dissatisfied party should submit his/her written comments in a timely manner to the City Manager; which is considered no longer than ten (10) calendar days.

IV

DISCIPLINE/SANCTIONS

Disciplinary action will be taken against any employee found to have engaged in sexual harassment while at work or acting as a representative of the City or any employee found to have made a false claim of sexual harassment. The extent of sanctions may depend in part upon the ~~length and conditions of employment of the particular employee and~~ the nature of the offense. The City has the right to apply any sanction or combination of sanctions, up to and including discharge, to deal with unreasonable conduct or discrimination.

Where a hostile work environment has been found to exist, the City will take all reasonable steps to eliminate the conduct creating such an environment.

V

EDUCATION/TRAINING

Education and training for Council Members and employees at each level of the work force are critical to the success of the City's policy against sexual harassment.

Education and training will include the following components:

1. As part of general orientation, each recently hired employee will be given a copy of and requested to read and sign a receipt for the City's policy statement on sexual harassment so that they are on notice of the standards of behavior expected.
2. For all employees with supervisory authority over other employees, and all employees working in a managerial capacity: All supervisory personnel will participate in an annual training session on sex discrimination. At least one-third of each session will be devoted to education about work place sexual harassment, including training as to exactly what types of remarks, behavior and pictures will not be tolerated in the work place. Participants will be informed that they are responsible for knowing the contents of the City's sexual harassment policy.
3. All employees are required to participate on City time in annual seminars that describe workplace sexual harassment and teach strategies for resisting and preventing sexual harassment.

LEGAL RIGHTS UNDER LAW

Any Employee who believes s/he has been subjected to sexual harassment has the right to file a complaint with the Illinois Department of Human Rights, 100 West Randolph Street, Chicago, Illinois 60601; (312) 814-6245 and/or the Equal Employment Opportunity Commission, 500 West Madison, Suite 2800, Chicago, Illinois 60661; (312) 353-2713. The Illinois Human Rights Act provides that complaints of harassment must be filed within 180 days of the alleged incident. A complaint with the EEOC must be filed within 300 days of the alleged incident. It is also a violation of Section 6-101 of the Illinois Human Rights Act to retaliate against an employee for opposing or complaining about conduct believed to be a violation of the Act.

Since passage of the OSH Act in 1970, Congress has expanded OSHA's whistleblower authority to protect workers from retaliation under twenty-two federal laws. Complaints must be reported to OSHA within set timeframes following the retaliatory action, as prescribed by each law.

File a discrimination complaint if your employer has retaliated against you for exercising your rights as an employee. If you have been punished or retaliated against for exercising your rights under the OSH Act, you must file a complaint with OSHA within 30 days of the alleged reprisal. In states with approved state plans, employees may file a complaint under the OSH Act (Section 11(c)) with both the State and Federal OSHA.

If you are filing a complaint under any other whistleblower statute enforced by OSHA, the time limit for filing varies by statute. They also must be filed directly with Federal OSHA. Refer to the Summary of OSHA Whistleblower Statutes to determine the time limit that applies to your complaint

You may file your discrimination complaint using any of these filing options:

1. Online - Use the Online Whistleblower Complaint Form to submit your complaint to OSHA. Complaints received online from workers located in states with OSHA-approved state plans will be forwarded to the appropriate state plan for response.
2. Fax/Mail - Fax or mail a letter describing your complaint, or a printed copy of your completed Online Whistleblower Complaint Form to your local OSHA Regional or Area Office. Please make sure that your correspondence includes your name, address, and telephone or fax number so we can contact you to follow up.
3. Telephone - Call your local OSHA Regional or Area Office. OSHA staff can discuss your complaint with you and respond to any questions you may have.

OSHA will accept your complaint in any language.

OSHA conducts an interview with each complainant to determine the need for an investigation. If evidence supports the worker's claim of discrimination, OSHA will ask the employer to restore the worker's job, earnings and benefits.

NOTE: The City reserves the right to amend the policy from time to time.