**Sexual Harassment Prevention Policy, LMC Model Policy**

*League staff thoughtfully develops models for a city’s consideration. Models should be customized as appropriate for an individual city’s circumstances in consultation with the city’s attorney. Helpful background information on this model may be found in the* [*Personnel Policies Chapter*](https://www.lmc.org/resources/hr-reference-manual-chapter-7-personnel-policies/) *of the Human Resources Reference Manual.* See Section XIII-Other policies*.*

***Note:*** The EEOC recommends providing the policy to employees upon hire and during harassment prevention trainings, as well as posting centrally, such as on the organization’s internal website, in the employee handbook, near employee time clocks, in employee break rooms, and in other commonly used areas or locations

**This icon marks places where the city must customize the model. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.**

City of \_\_\_\_\_\_\_, Minnesota

Sexual Harassment Prevention Policy

**General**

The City of **\_\_\_\_\_\_\_** is committed to creating and maintaining a public service workplace free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws.

In keeping with this commitment, the city maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment. Discriminatory behavior includes inappropriate remarks about or conduct related to a person’s legally protected characteristic such as race, color, creed, religion, national origin, disability, sex, gender, pregnancy, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.

This policy statement is intended to make all employees, volunteers, members of boards and commissions, applicants, contractors/vendors, elected officials and members of the public aware of the matter of harassment, but specifically sexual harassment, to express the city’s strong disapproval of harassment, to advise employees against this behavior, and to inform them of their rights and obligations. The most effective way to address any sexual harassment issue is to bring it to the attention of management.

**Applicability**

Maintaining a work environment free from harassment is a shared responsibility. This policy is applicable to all city employees, volunteers, applicants, contractors/vendors, members of boards and commissions, City Council members, and members of the public both in the workplace and other city-sponsored social events.

**Definitions**

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minnesota Statute § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:

* Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or
* Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual’s employment; or
* Such conduct has the purpose or result of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment includes, but is not limited to, the following:

• Unwelcome or unwanted sexual advances. This means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.

• Verbal or written abuse, making jokes, or comments that are sexually oriented and considered unacceptable by another individual. This includes comments about an individual’s body or appearance where such comments go beyond mere courtesy, telling “dirty jokes” or any other tasteless, sexually oriented comments, innuendos or actions that offend others. The harassment policy applies to social media posts, tweets, etc., that are about or may be seen by employees, customers, etc.

• Requests or demands for sexual favors. This includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one’s current or future job.

**Expectations**

The City of \_\_\_\_\_\_\_ recognizes the need to educate its employees, volunteers, members of boards and commissions, contractors/vendors, applicants, elected officials and members of the public on the subject of sexual harassment and stands committed to providing information and training. All employees are expected to treat each other and the general public with respect and assist in fostering an environment free from offensive behavior or harassment. Violations of this policy may result in discipline, including possible termination. Each situation will be evaluated on a case-by-case basis.

Employees who feel that they have been victims of sexual harassment, or employees who are aware of such harassment, should immediately report their concerns to any of the following:

1. A supervisor;
2. Your supervisor’s manager;
3. Human Resources;
4. City administrator;
5. Mayor or city councilmember;
6. City Attorney.

In addition to notifying one of the above persons and stating the nature of the harassment, the employee is also encouraged to take the following steps, if the person feels safe and comfortable doing so. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and/or take other reasonable action, and as soon as feasible, a supervisor.

1. Communicate to the harasser the conduct is unwelcome. Professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions, and request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.
2. In some situations, such as with an offender from the public, it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with an offender.
3. To reiterate, it’s important you notify a supervisor, the city administrator, the mayor or councilmember of your concerns promptly. Any employee who observes sexual harassment or discriminatory behavior, or receives any reliable information about such conduct, must report it promptly to a supervisor or the city administrator. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter. If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the city administrator, the mayor or the city attorney.

The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. Management takes these complaints seriously and has the obligation to provide an environment free of sexual harassment. The city is obligated to prevent and correct unlawful harassment in a manner which does not abridge the rights of the accused. To accomplish this task, the cooperation of all employees is required.

In the case of a sexual harassment complaint, a supervisor must report the allegations promptly to the city administrator. If the city administrator is the subject of the complaint, then the supervisor is to report the complaint to the City Attorney. A supervisor must act upon such a report even if requested otherwise by the victim. The city will take proportionate corrective action to correct any and all reported harassment to the extent evidence is available to verify the alleged harassment and any related retaliation. As noted later in this policy, retaliation is strictly prohibited. All allegations will be investigated. Formal investigations will be prompt, impartial, and thorough. Strict confidentiality is not possible in all cases of sexual harassment as the accused has the right to answer charges made against them; particularly if discipline is a possible outcome. Reasonable efforts will be made to respect the confidentiality of the individuals involved, to the extent possible. Any investigation process will be handled as confidentially as practical and related information will only be shared on a need to know basis and in accordance with the Minnesota Government Data Practices Act and/or any other applicable laws.

To facilitate fostering a respectful work environment, all employees are encouraged to respond to questions or to otherwise participate in investigations regarding alleged harassment.

The City is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

*The disclaimer above is in reaction to Peterson v. City of Minneapolis 892 N.W. 2d 824 (Minn. 2017), in which the Minnesota Supreme Court held that the City’s Respect in the Workplace Policy is a “dispute resolution process” under Minn. Stat. § 363A.28, subd. 3(b), and that the parties voluntary engagement in that process suspended the one-year statute of limitations period under the Minnesota Human Rights Act for the duration of the process.* ***It is not clear whether a disclaimer will be legally valid.*** *As a result, cities should conduct prompt investigations under this policy and notify complainants when an investigation is complete.*

**Special Reporting Requirements**

When the supervisor is the alleged harasser, a report will be made to the city administrator who will assume the responsibility for investigation and discipline. For more information about what to do when allegations involve the city administrator, the mayor, or a councilmember, see below.

If the city administrator is the alleged harasser, a report will be made to the City Attorney who will confer with the Mayor and City Council regarding appropriate investigation and action.

If a councilmember is the alleged harasser, the report will be made to the city administrator and referred to the City Attorney who will undertake the necessary investigation. The City Attorney will report his/her findings to the City Council, which will take the action it deems appropriate.

Pending completion of the investigation, the city administrator may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens. The city will take reasonable and timely action, depending on the circumstances of the situation.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the City Attorney will be consulted as to the appropriate course of action.

In cases such as these, it is common for the city council to authorize an investigation by an independent investigator (consultant). The city will take reasonable and timely action, depending on the circumstances of the situation.

**Retaliation**

The City of \_\_\_\_\_\_\_ will not tolerate retaliation or intimidation directed towards anyone who reports employment discrimination, serves as a witness, participates in an investigation, and/or takes any other actions protected under federal or state discrimination laws, including when requesting religious or disability accommodation. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment. Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal or harassment. While each situation is very fact dependent, generally speaking retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor;
2. Your supervisor’s manager;
3. City Administrator;
4. Mayor or City Councilmember
5. In the event an employee feels retaliation has occurred by the city administrator or the City Council, then reporting may be made to the City Attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the city administrator, or if the complaint is against the city administrator, to the City Attorney, who will decide how to proceed in addressing the complaint.

Consistent with the terms of applicable statutes and city personnel policies, the city may discipline any individual who retaliates against any person who reports alleged violations of this policy. The city may also discipline any individual who retaliates against any participant in an investigation, proceeding or hearing relating to the report of alleged violations.