
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE APPROVING AN AMMENDMENT TO THE PERSONNEL
POLICIES MANUAL CONCERNING A REVISED
POLICY ON PROHIBITED HARASSMENT**

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WHEREAS, the City of Rochelle, County of Ogle, State of Illinois, a non-home rule unit of government, has the power to set policies and procedures for its employees and elected officials and

WHEREAS, previously the City has adopted a policies and procedures manual for employees and elected officials (“Personnel Policies Manual”) setting forth the policies and procedures in current force and effect for City employees and elected officials; and

WHEREAS, by its nature, the Personnel Policies Manual is in constant need of review and revision to be consistent with all applicable laws and current technology; and

WHEREAS, the Illinois General Assembly has recently enacted Public Act 100-0554, an Act concerning government, which became effective immediately, dated November 16, 2017;

WHEREAS, pursuant to the Act, each governmental unit shall adopt an ordinance or resolution establishing a policy to prohibit sexual harassment;

WHEREAS, all prior existing sexual harassment policies of the City of Rochelle shall be superseded by the attached adopted by this Ordinance; and

WHEREAS, should any section or provision of this Ordinance or the adopted Policy on Prohibited Harassment be declared to be invalid, that decision shall not affect the validity of this Ordinance or adopted Policy on Prohibited Harassment as a whole or any part thereof, other than the part so declared to be invalid;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCHELLE, OGLE COUNTY, ILLINOIS:

SECTION ONE: The Policy on Prohibited Harassment, included as Exhibit A to this Ordinance, is hereby adopted.

SECTION TWO: Any policy resolution or ordinance of the Village that conflicts with the provisions of this ordinance shall be and is hereby repealed to the extent of such conflict.

SECTION THREE: This ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS ____ day of _____, 2017.

AYES:

NAYS:

ABSENT:

APPROVED THIS ____ day of _____, 2017.

MAYOR

ATTEST:

CITY CLERK

“EXHIBIT A”

ARTICLE D

EMPLOYEE CONDUCT

SECTION 1: POLICY ON PROHIBITED HARASSMENT

The City of Rochelle (the “City”) prohibits all forms of unlawful harassment in the workplace. Prohibited harassment (that is defined in this policy) is potentially illegal under State and Federal laws. Additionally, that harassment also serves to undermine the integrity of the employment relationship.

It is the purpose of this policy to identify the forms of harassment prohibited by this policy, confirm the procedures that employees may follow in reporting such conduct and the investigatory steps that will follow such reports, and state the disciplinary consequences that may result from violations of this policy.

a. **SEXUAL HARASSMENT**

1. Definition: Sexual harassment is any verbal or physical conduct that denigrates, threatens, or shows hostility toward another employee because of that employee’s gender. Sexual harassment may be committed by either males or females and the victims of sexual harassment may be of the same or of the opposite sex. Such harassment may result from the actions of any employee of the City (including managers and non-managers) and from outside third parties (e.g. citizens, vendors, contractors, etc.).

Sexual harassment may consist of unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex-based nature, without regard to whether submission to such conduct is made either explicitly implicitly a term or condition of an individual’s employment, without regard to whether an employment decision affecting an employee is based on the individual’s acceptance or rejection of such conduct, and without regard to whether such conduct may interfere with an individual’s work performance or may create an intimidating, hostile or offensive working environment.

Further, verbal or physical conduct need not be of a sexual nature to constitute sexual harassment where the harassing conduct is motivated by hostility toward an individual because of the presence of that individual’s gender in the workplace.

2. Prohibited Conduct. Prohibited acts of sexual harassment may take a variety of verbal, non-verbal, visual, physical and textual/electronic forms ranging from subtle pressure to more overt behavior. Prohibited conduct which may be viewed as sexual harassment includes, but is not necessarily limited to, the following:

- Verbal: sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.
- Non-verbal: suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, “catcalls”, “smacking” or “kissing” noises.

- Visual: posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- Physical: touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- Textual/Electronic: “sexting” (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

b. OTHER FORMS OF PROHIBITED HARASSMENT

1. Definition: In addition to sexual harassment (as defined above), the City is also opposed to other forms of unlawful harassment. Other forms of unlawful harassment prohibited by this policy include any verbal or physical conduct that denigrates or shows hostility toward an employee because of an employee’s race, color, religion, gender, actual and/or perceived sexual orientation, national origin, age, actual and/or perceived disability, ancestry, marital status, unfavorable discharge from military service or military status or that of his or her family, friends or acquaintances. Such harassment may result from the actions of any employee of the City (including managers and non-managers) and from outside third parties (e.g. citizens, vendors, contractors, etc.).

2. Prohibited Conduct. Prohibited acts of harassment under this policy may take a variety of verbal and non-verbal and/or physical forms. Such prohibited conduct occurs when such conduct has the purpose or effect of interfering with an employee’s work performance, creating an intimidating, hostile or offensive work environment, or otherwise adversely affects an employee’s employment opportunities. Some examples of harassing conduct include epithets, slurs, negative stereotyping or insulting or degrading words or actions. Harassment also includes threatening, intimidating or violent acts directed against an employee or an employee’s family, friends or acquaintances. Another example of such harassment is the use of written or graphic materials, such as posters, cartoons or jokes, which denigrate or show hostility toward a particular individual or group. These and all other types of harassment based on an employee’s race, religion, color, gender, actual and/or perceived sexual orientation, national origin, age, actual and/or perceived disability, ancestry, marital status, unfavorable discharge from the military service and military status, are strictly prohibited.

c. REPORTING OF INAPPROPRIATE CONDUCT

Any individual who believes that he or she has been harassed in violation of this policy should immediately make a verbal or written complaint to the Human Resources Coordinator, the City Manager or to any appropriate Manager or Supervisor with whom the employee feels comfortable discussing the situation. In all cases, an individual making a complaint of harassment shall be given the opportunity in the complaint procedure to bypass the person who is allegedly committing the involved harassment. There will be no adverse action resulting against any individual who in good faith makes a complaint under this policy and/or who participates in any investigation into a complaint.

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (5 ILCS 430/15-10) provides whistleblower protection from retaliatory action such as

reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

1. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation,
2. Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee, or
3. Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a)), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (740 ILCS 174/15(b)).

According to the Illinois Human Rights Act (775 ILCS 5/6-101), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – due within 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.

d. INVESTIGATIONS

All complaints of harassment under this policy will be promptly investigated. In all cases, the investigation will be conducted by personnel not involved in the alleged harassment and with the utmost privacy and confidentiality. However, in some instances, certain details of the employee's complaint may necessarily be shared with other parties to the investigation.

Typically, the investigations will be conducted by an appropriate investigator designated by the City Manager. However, if the alleged victim is uncomfortable reporting the incident to a designated investigator, an alternate investigator will be assigned. The investigation will be completed in a timely manner and both the alleged victim and the alleged harasser will be notified of the results of the investigation.

e. DISCIPLINARY CONSEQUENCES

Harassment prohibited by this policy is a serious violation of the rules of conduct expected of all employees of the City. If it is determined that an individual has participated in prohibited harassment, that individual will be subject to disciplinary action up to and including termination from employment.

f. CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT

A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to \$5,000 against any person who intentionally makes a false, frivolous or bad faith allegation.