CITY OF APPLETON POLICY	TITLE: **HARASSMENT & DISCRIMINATION IN THE WORKPLACE**	
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I. PURPOSE

The purpose of this policy is to ensure that the City of Appleton maintains a healthy work environment in which all individuals are treated with respect and dignity, while providing procedures for reporting, investigating, and resolving complaints of harassment and discrimination. Federal and state law provides for the protection of classes of persons discriminated against based on race, color, creed, religion, national origin, ancestry, age, sex/gender, handicap or disability, arrest/conviction record, marital status, sexual orientation, gender identity and gender expression, political affiliation, results of genetic testing, honesty testing, pregnancy or childbirth, military service, disabled veteran or covered veteran status service in the U.S. Armed Forces, the State Defense force, National Guard of any state, or any other reserve component of the United States or State military forces, use or nonuse of lawful products off the employer's premises during non-working hours.

II. POLICY

It is the policy of the City of Appleton that all employees have the right to work in an environment free of all forms of harassment. The City of Appleton will not tolerate, condone, or allow harassment by any employees or other non-employees who conduct business with the City. The City of Appleton considers harassment and discrimination of others forms to be serious employee misconduct. Therefore, the City will take direct and immediate action to prevent such behavior, and to remedy all reported instances of harassment and discrimination. A violation of this City policy can lead to discipline up to and including termination, with repeated violations, even if "minor," resulting in greater levels of discipline as appropriate.

A. Prohibited Activity

1. No employee shall either explicitly or implicitly ridicule, or belittle any person.

2. Employees shall not make offensive or derogatory comments to any person, either directly or indirectly, based on race, color, creed, religion, national origin, ancestry, age, sex/gender, handicap or disability, arrest/conviction record, marital status, sexual orientation, gender identity and gender expression, political affiliation,

results of genetic testing, honesty testing, pregnancy or childbirth, military service, disabled veteran or covered veteran status, service in the U.S. Armed Forces, the State Defense force, National Guard of any state, or any other reserve component of the United States or State military forces, use or nonuse of lawful products off the employer's premises during non-working hours. Such harassment is a prohibited form of discrimination under state and federal employment law and/or is also considered misconduct subject to disciplinary action by the City of Appleton.

3. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

   a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

   b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the employee; or

   c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

4. This policy covers all employees whether the unwelcome conduct originates from an employee or non-employee. Examples: customers, citizens, contractors, etc.

7. This policy covers any incident that occurs as an extension of the workplace. (See definition.) All conduct at this extension of the workplace, whether before, during, or after the event, will be considered under this policy.

B. **Supervisory Responsibilities**

1. Each supervisor shall be responsible for preventing acts of harassment. This responsibility includes the following:

   a. Monitoring the work environment for signs of harassment;

   b. Informing employees on the types of behavior prohibited, and the City procedures for reporting and resolving complaints of harassment;

   c. Stopping any observed behavior that may be considered harassment, and taking appropriate steps to intervene and report behavior, whether or not the involved employees are within his or her line of supervision, and

   d. Taking immediate action to prevent retaliation toward the complaining party and to eliminate any similar conduct where there has been a complaint of harassment, pending investigation. If a situation requires separation of the parties, care shall be taken to avoid actions that appear to negatively impact the complainant. Transfer or reassignment of any of the parties involved shall be voluntary if possible and, if non-voluntary, shall be temporary pending the outcome of the investigation.

   e. Failing to carry out these responsibilities will be considered in any performance evaluation or promotional decisions and may be grounds for discipline, up to and including discharge.

2. Each supervisor is responsible for assisting any employee of the City who comes to that supervisor with a concern of harassment in documenting and filing a complaint with the Human Resources Department or other reporting authority as designated by the City.

C. **Employee Responsibilities:**

1. Each employee, including supervisors, of the City is responsible for assisting in the prevention of harassment by taking the following steps:

   a. Refraining from participation in, or encouragement of, actions that could be perceived as harassment;

   b. Reporting to a supervisor super-offensive behavior such as physical grabbing, pinching or touching another employee's private areas or communication of sexual, racial, ethnic, religious or gender-based slurs;

   c. Encouraging any employee who confides that he or she is being harassed or discriminated against to report these acts to a supervisor.

2. Employees are expected to cooperate fully in any investigation, whether or not they are directly involved in the incident.

III. DEFINITIONS

A. **Verbal Harassment:** Sexual innuendoes, degrading or suggestive comments, repeated pressure for dates, jokes of a sexual nature, unwelcome sexual flirtations, degrading words used to describe an individual, obscene and/or graphic descriptions of an individual's body or threats that job, wages, assignments, promotions or working conditions could be affected if the individual does not agree to a suggested sexual relationship.

B. **Non-Verbal:** Sexually suggestive or offensive objects or pictures, inappropriate usage of voicemail, e-mail, the internet or other such sources as a means to express or obtain sexual material, comments etc., printed or written materials including offensive cartoons, suggestive or offensive sounds, whistling, catcalls or obscene gestures. Any material which inappropriately raises the issues of sex or discrimination. Treating an employee differently than other employees when they have refused an offer of sexual relations.

C. **Physical:** Unsolicited or unwelcome physical contact of a sexual nature, which may include touching, hugging, massages, kissing, pinching, patting, or regularly brushing against the body of another person.

D. **Other Forms of Harassment**: Persistent and unwelcome conduct or actions on the basis of disability, sex, arrests or conviction record, marital status, sexual orientation, gender identity and gender expression, membership in the military reserve, or use or nonuse of lawful products away from work is prohibited under this policy and s.111.31-111.39, Wis. Stats.

E. **Harassment on any basis (race, sex, age, disability etc.) exists whenever**: Submission to harassing conduct is made, either explicit or implicit, a term or condition of an individual's employment; submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual; the conduct interferes with an employee's work or creates an intimidating, hostile, or offensive work environment. Such conduct is

prohibited under this policy and §111.31 -- 111.39 Wis. Stats.

F. **Unwelcome**: Sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome. The conduct may be unwelcome even though the victim voluntarily engages in it to avoid adverse treatment.

G. **Extension of the Workplace**: This policy covers any incident that occurs as an extension of the workplace. An extension of the workplace is defined as any event sponsored by the City of Appleton.

IV. PROCEDURES

A. Any employee encountering harassment is encouraged but not required to inform the person that his or her actions are unwelcome and offensive. The employee is to document all incidents of harassment to provide the fullest basis for investigation.

B. Any employee who believes that he or she is being harassed shall report the incident(s) to his or her supervisor as soon as possible so that steps may be taken to protect the employee from further harassment, and so that appropriate investigative and disciplinary measures may be initiated. Where doing so is not practical, the employee may instead report the conduct to the Human Resources Director, Human Resources Deputy Director, Human Resources Generalist, City Attorney, Deputy City Attorney, Assistant City Attorney or another supervisor from the City.

1. The supervisor or other person to whom a complaint is given shall meet with the employee and document the incident(s) complained of, the person(s) performing or participating in the harassment, any witnesses to the incident(s) and the date(s) on which it occurred.

2. Any employee who believes it is not practical to file their complaint directly within their departmental structure must file the complaint with the Human Resources Director, Human Resources Deputy Director, Human Resources Generalist, City Attorney, Deputy City Attorney, Assistant City Attorney

   After the complaint has been filed with any of the above named positions, and the complainant does not feel it has been resolved in an acceptable manner, they may file the complaint with the following:

   a. EQUAL RIGHTS DIVISION
      201 East Washington Avenue Room 407
      P.O. Box 8928
      Madison, WI 53708-8928

      Voice: (608) 266-6860
      TDD (Hearing Impaired) (608) 264-8752

   b. EQUAL RIGHTS DIVISION
      819 North Sixth Street Room 255
      Milwaukee, WI 53203

      Voice: (414) 227-4384
      TDD (Hearing Impaired) (414) 227-4081

   c. EEOC
      Milwaukee District Office

310 West Wisconsin Avenue
Suite 800
Milwaukee, WI 53203-2292

Voice: (414) 297-1111
TDD (Hearing Impaired) (414) 297-1115

If the employee exercises the reporting options of a, b, or c above of this section, they must file a copy of the complaint with the City Attorney within 24 hours of the filing of the complaint.

C. The Human Resources Department shall be responsible for investigating any complaint alleging harassment or discrimination and shall do the following:

1. The internal Human Resources Department shall immediately notify the Legal Services Department if the complaint contains evidence of criminal activity, such as battery, rape, or attempted rape.
2. The investigation shall include a determination as to whether other employees are being harassed by the person, and whether other persons covered by this policy participated in or encouraged the harassment.
3. The internal investigative authority shall inform the parties involved of the outcome of the investigation.
4. A file of harassment and discrimination complaints shall be maintained in a secure location. The Legal Services Department shall be provided with an annual summary of these complaints.
5. There shall be no retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying, or participating in the investigation of such a complaint.
6. The complaining party's confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.
7. This policy does not preclude any employee from filing a complaint or grievance with an appropriate outside agency.

D. Retaliation

1. Retaliation against any employee for filing a harassment or discrimination complaint, or for assisting, testifying, or participating in the investigation of such a complaint, is illegal and is prohibited by the City of Appleton and by federal statutes.
2. Retaliation is a form of employee misconduct. Any evidence of retaliation shall be considered a separate violation of this policy and shall be handled by the same complaint procedures established for harassment and discrimination complaints. Retaliation may subject an individual to additional punishment up to and including discharge.
3. Monitoring to ensure that retaliation does not occur is responsibility of the supervisors.

E. Falsification or Mis-Representation of Information

An employee will be subject to disciplinary action up to and including discharge for falsifying any information or mis-representing any information required or requested as part of a complaint, investigation, or proceeding under this policy.

INVESTIGATION GUIDELINES

We are in the process of doing an investigation related to information that has been brought to the attention of the Human Resources Department.

We will be collecting the facts today. As a City employee you have an obligation to be truthful, honest and share what you know about the situation.

We will keep the information as confidential as we are able to. We cannot guarantee total confidentiality but this information will be released to only those persons with a need to know. This is an ongoing investigation and in order to preserve the integrity of the investigation you are expected to also keep the information confidential.

Any retaliation from any parties with regard to this matter is prohibited and you should contact either the Legal Services Department or the Human Resources Department immediately if this occurs.

Intentional withholding of information or dishonesty as well as retaliation could result in discipline up to an including termination.

I have received a copy of the INVESTIGATION GUIDELINES:

_____ _____

Name Date