

RESOLUTION NO. 2020-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, AMENDING THE CITY OF VENICE PERSONNEL PROCEDURES AND RULES, 2020 EDITION, SECTION 1.23 POLICY AGAINST HARASSMENT AND DISCRIMINATION AND SECTION 1.3 EMPLOYMENT PROCESS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Sec. 50-35 of the Code of Ordinances provides that amendments to the City of Venice Personnel Procedures and Rules may be made and adopted by resolution; and

WHEREAS, city council wishes to amend the City of Venice Personnel Procedures and Rules, 2020 edition.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, as follows:

SECTION 1. The whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Section 1.23, Policy Against Harassment and Discrimination, of the City of Venice Personnel Procedures and Rules, 2020 edition is hereby amended as follows:

1.23 POLICY AGAINST HARASSMENT AND DISCRIMINATION

Policy

The City of Venice is committed to providing a work environment that is free from harassment or discrimination. In keeping with this commitment, the city maintains a strict policy prohibiting any kind of unlawful harassment or discrimination based upon race, gender, sex, color, national origin, genetic information, disability, age, religion or other legally protected class. This policy prohibits harassment in any form, such as verbal, physical and visual.

Definitions and Examples

Unwelcome sexual advances, requests for sexual favors, and any other physical, verbal or visual conduct of a sexual nature constitute sexual harassment when:

1. Submission to the conduct is an explicit or implicit term or condition of employment or continued employment; or
2. Submission to or rejection of the conduct is used as a basis for employment decisions affecting an employee, such as promotion, demotion or evaluation; or
3. The conduct has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment may include, but is not limited to:

1. Unwelcome sexual propositions;
2. Sexual innuendo;
3. Sexually suggestive remarks;
4. Vulgar or sexually explicit comments, gestures or conduct;
5. Sexually oriented kidding, teasing or practical jokes;
6. Physical contact such as brushing against another's body, pinching or patting;
7. The publication, to anyone, of documents (including pictures and text) in the workplace that contain any material that is of a sexual nature; and
8. Using a city computer to access any web site, newsgroup, CD or any other resource, that contains material that is of a sexual nature.

Sexual harassment may occur when the intended target of the conduct is not offended, but others reasonably find the conduct to be intimidating, hostile, or abusive.

Other unlawful harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of their race, color, religion, gender, national origin, age, marital status, sexual orientation, disability or other protected class when it:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment; or
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

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

1. Epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts that relate to race, color, religion, gender, national origin, age, marital status, sexual orientation, disability or other protected status; and
2. Written or graphic material that denigrates or shows hostility toward an individual or group because of race, color, religion, gender, national origin, age, marital status, sexual orientation, disability or other protected class and that is placed on walls, ~~or~~ bulletin boards, or elsewhere on the city's premises, or circulated in the workplace. This also includes acts that purport to, or are meant to be "jokes" or "pranks" but that are hostile or demeaning, such as hate mail, threats, defaced photographs, workplace displays of hanging nooses, or other such conduct.

Unlawful discrimination includes, but is not limited to, ~~all~~ an adverse action taken by an employer or its agent which affects an employee's pay, benefits, or other terms and conditions of employment because of their race, color, religion, gender, national origin, age, marital status, sexual orientation, disability or other protected class. Examples of adverse actions include denial of promotion, failure to hire, denial of job benefits, demotions, suspensions, disciplinary actions, demeaning or unreasonably arduous work assignments, and termination of employment.

~~Every Employee is Responsible for Making the City Aware of Any Complaints of Sexual or Other Unlawful Harassment or Discrimination.~~

Employees Encouraged to Report All Instances of Sexual or Other Unlawful Harassment or Discrimination and Supervisors Required to Report Instances of which they are Aware

The city ~~is committed to~~ shall promptly and thoroughly investigate ~~all~~ all complaints of sexual and other unlawful harassment or discrimination. All employees are responsible for making management aware of any reports that sexual or other unlawful harassment or ~~intimidation~~ discrimination is occurring in the workplace.

Any employee who believes they have been harassed by a coworker, manager or agent of the city, or has been subjected to unlawful discrimination, should promptly report the facts of the incident or incidents and the names of the individuals involved to their supervisor and the director of human resources. However, if the employee's complaint involves their supervisor or ~~they otherwise feel uncomfortable reporting the employee does not want to report the matter~~ to their supervisor, the employee may instead report the ~~allegations solely~~ matter directly to the director of human resources, or directly to the city manager or the city attorney. Managers who know or who become aware of potential harassment or discrimination have an affirmative duty to report all complaints of harassment to the director of human resources or, alternatively, to the city manager or the city attorney, to ensure that they are resolved promptly and effectively. The city will investigate all complaints and advise the interested parties of the conclusions.

The city will conduct all actions to resolve complaints of harassment or discrimination through internal investigations as confidentially as possible and practical. Any manager or other employee who is found, after appropriate investigation, to have engaged in harassment of, or discrimination against, another employee will be subject to disciplinary action, up to and including dismissal. Employees who utilize the complaint procedure outlined in this policy will not be retaliated against and will not have their employment adversely affected by making such a complaint. Any such retaliation will constitute a separate violation of this policy and may subject the violator to disciplinary action including discharge.

Complaint and Investigation Procedure

Initial Complaint

Any employee who believes he or she has been the subject of sexual or other unlawful harassment or discrimination must report the alleged act immediately to ~~their supervisor and the director of human resources~~ one of the persons designated above in this policy. Employees are not expected to report harassment or discrimination to the person they believe is harassing or discriminating against them. Anonymous complaints of harassment or discrimination will be investigated to the extent they contain sufficient information to warrant investigation.

Nature of Investigation

Investigation of a complaint will normally include ~~conferring with~~ interviewing the parties involved and any named or ~~apparent~~ relevant witnesses and obtaining relevant documents and information. For each complaint, the investigative process, including any investigative findings, shall be reviewed by the city attorney. All persons who participate in such an investigation shall be protected from coercion, intimidation, retaliation, interference or discrimination for filing a complaint or participating in an investigation. The city shall document in its records all actions taken in conducting its investigation and shall retain all documents and information collected or generated in the course of the investigation, including the complaint and witness statements.

Conclusion of Investigation

If, after a thorough and fair investigation, it is determined that sexual or other unlawful harassment or discrimination has occurred, immediate and appropriate disciplinary action up to and including discharge will be taken. Follow-up steps will be taken to ensure that the harassment or discrimination has stopped or as otherwise appropriate.

Complaint to the Equal Employment Opportunity Commission

In addition, or, as an alternative, to making an internal complaint to city management, any employee who believes he or she has been a victim of unlawful harassment or discrimination is advised they have the option of filing an external complaint with the Equal Employment Opportunity Commission (which is called a “charge of discrimination”). For information on how to file an EEOC charge of discrimination, employees should contact the EEOC’s Tampa Field Office, which processes charges from this jurisdiction. The website for that office is <https://www.eeoc.gov/field-office/tampa/location>. There is a time deadline for filing an EEOC charge so employees are encouraged to contact the EEOC as soon as possible after the alleged act of harassment or discrimination occurs.

SECTION 3. Section 1.3, Employment Process, of the City of Venice Personnel Procedures and Rules, 2020 edition is hereby amended as follows:

1.3 EMPLOYMENT PROCESS

Application for Employment

All parties interested in applying for a position with the City of Venice shall accurately complete the employment application online or on paper by the deadline on the job announcement. Only qualified applicants selected for an interview will be contacted. Successful candidates must pass all pre-employment requirements, including, but not limited to a drug screen, pre-employment physical examination, criminal background and driving record check, reference review and educational/employment experience verification.

Nicotine Screening

Candidates will be required to sign (electronically and/or on paper) an affidavit stating that they have refrained from nicotine products for the 12 months preceding the application. If an applicant refuses to sign this affidavit, they will be considered ineligible for employment for a period of 12 months from the date of refusal.

Candidates are required to submit the necessary laboratory specimens during the pre-employment physical to allow initial nicotine screening. A confirmatory nicotine test will be conducted when the initial nicotine screening is positive. The confirmatory nicotine test will be conducted by an independent diagnostic lab. Applicants found to have a confirmed positive nicotine test will be considered ineligible for employment at the city for a period of 12 months following receipt of the positive nicotine test results.

Nicotine products are defined as: cigarette, chewing tobacco, cigars, or any other product containing nicotine that is ingested or inhaled.

Recruitment

When a vacancy occurs or if a new position is duly authorized, the responsible department head shall submit a ~~requisition to the human resources department for each such vacancy~~ Request to Fill Vacant Position Form to the Human Resources (HR) department. HR will review the form for completeness and accuracy, verify sufficient funds are budgeted and submit to the City Manager. Only upon approval by the City Manager will HR recruit to fill the vacancy. ~~All departments shall work cooperatively with the human resources department in planning for new positions. All vacant positions within the city will be advertised and filled as established by the city manager. Employees desiring to be considered for any vacancy shall make written application in accordance with the job announcement.~~

1. Job Announcements

- HR will proactively work with departments with vacancies (hiring departments) to review and update job descriptions and associated job announcements prior to advertising to ensure they are current, clear and appropriate.

- Once set in the job announcement, codified prerequisites such as minimum education and training requirements cannot be changed (unless and until the position is later re-posted).
- HR will proactively collaborate with hiring departments in identifying advertising sources in advance to provide maximum exposure, and document that the agreed-upon advertising was done in each case.

2. Applicant Screening and Documentation

- HR will clearly distinguish qualified versus non-qualified applicants by means of a covering spreadsheet for each job announcement file.
- HR will forward only qualified applicants to the hiring department for consideration.
- Except in cases where the director of the hiring department wishes to personally or by delegation interview candidates alone, the hiring department will identify a selection panel to conduct interviews. Selection panel members may come from within or outside the organization.
- The selection panel chair (typically the hiring department director or designee) will advise HR of the qualified applicants they wish to interview.

3. Selection process

- HR will have representation in each selection process for each position to monitor the selection process, provide necessary guidance, assist in scheduling, etc.
- Candidate selection will be done on the basis of merit and fitness demonstrated by examination or other evidence of competence (typically focused on interviews).
- HR will take minutes of each selection process meeting for the record.
- At the conclusion of the selection process, the selection panel chair will advise HR of the selected candidate.

4. Conditional offers

The HR Director, with the assistance of the finance director and city manager, as necessary, will determine the appropriate salary level and extend a conditional offer to the selected candidate, with whom will be negotiated a mutually agreeable starting salary. The conditional offer may be withdrawn if any of the conditions are not met.

Selection

~~Each job description contains minimum qualifications, which must be met by an applicant in order to be considered for the specific position. The selection to fill open positions shall be based on merit and fitness demonstrated by examination or other evidence of competence. Veterans of the U.S. armed forces shall be given preference at all phases of the recruitment process when the individual using the preference possesses the minimum qualifications necessary for the position. The city shall endeavor to interview current city employees who make written application and meet the minimum requirements for the position. Upon completion of the interview process, the hiring official shall notify the director of human~~

~~resources of the proposed candidate selected and forward documentation to substantiate that the most qualified candidate has been selected. The hiring department shall work with the human resources department to arrange all necessary preemployment testing and qualification verifications. City manager approval is required to hire an individual at higher than midpoint of the grade prescribed for the position.~~

SECTION 4. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED AT A REGULAR MEETING OF THE VENICE CITY COUNCIL HELD ON THE 27TH DAY OF OCTOBER 2020.

Ron Feinsod, Mayor

ATTEST

Lori Stelzer, MMC, City Clerk

I, **LORI STELZER**, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of a Resolution duly adopted by the City Council of said city at a meeting thereof duly convened and held on the 27th day of October 2020, a quorum being present.

WITNESS my hand and the official seal of said City this 27th of October 2020.

(SEAL)

Lori Stelzer, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney