

**CITY OF GOLD BAR, WASHINGTON
ORDINANCE #789**

**AN ORDINANCE FOR THE CITY OF GOLD BAR, WASHINGTON AMENDING THE
PERSONNEL MANUAL RELATING TO DISCRIMINATION AND HARASSMENT**

WHEREAS, the Association of Washington Cities recommends updating discrimination and harassment policies; and

WHEREAS, the relevant sections of the City's Personnel Manual have not been updated recently;

NOW THEREFORE, THE COUNCIL FOR THE CITY OF GOLD BAR ORDAINS that the Personnel Manual be updated as follows.

Section I, Title 4 – Anti-Discrimination and Anti-Harassment Policy

Section II, Severability

Section III, Effective Date

Section I, Title 4 – Anti-Discrimination and Anti-Harassment Policy

A. It is the City's Policy to ~~foster and maintain a work environment that is free from discrimination and intimidation~~ provide a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal opportunities and prohibits discrimination based on race, color, national origin, religion, religious affiliation, creed, sex, sexual orientation, gender identity or expression, age, marital status, genetic information, ancestry, military status, the presence of a sensory, mental, or physical disability, or any other status protected by law. Employees are expected to show respect for each other, and the public, at all times.

Throughout Title 4, use of the word 'discrimination' is intended to include harassment.

~~B. Sexual or any other type of unlawful verbal, physical, or visual harassment of co-workers, co-employees, and members of the public is absolutely forbidden. This includes harassment based on gender, sexual orientation, race, religion, age, national origin, disability, or any other legally protected status. All employees must be sensitive to the feelings of others and must try not to act in a way that might be considered harassment by someone else.~~

B. Discrimination is prohibited in any protected class, as defined by law, in any aspect of employment, including:

- Job advertisements and recruitment
- Testing
- Hiring and firing
- Compensation, assignment, or classification of employees
- Promotion, layoff, or recall
- Training and apprenticeship opportunities
- Benefits
- Use of city facilities and equipment
- Other terms and conditions of employment

C. The prohibition of discriminatory practices also includes:

- Harassment on the basis of any protected class, as defined by law

- Retaliation against an individual for filing in good faith a charge of discrimination, participating in an investigation, or opposing discriminatory employment practices
- Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals based upon a legally protected status.

D. Harassment is a form of discrimination and creates a hostile work environment that may consist of unwelcome statements or actions that are sufficiently severe or pervasive so as to interfere with an individual's work performance, or that create an intimidating, hostile, or offensive work environment.

Harassment can take many forms. Prohibited harassment includes, but is not limited to:

1. Verbal (e.g., racial, sexual, or ethnic jokes, stereotypes, and insults);
2. Physical (e.g., sexually suggestive or unwelcome touching or obscene gestures);
3. Visual (e.g., insulting cartoons, sexually suggestive or lewd pictures or photographs).

E. The City does not tolerate sexual harassment, which is a form of unlawful discrimination. For purposes of this policy, sexual harassment is defined as unwelcome or unwanted advances, requests for sexual favors, and any other verbal, visual, or physical conduct of a sexual nature when submission to, or rejection of, this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, retention, promotion, or other aspects of employment; or when conduct substantially interferes with an individual's employment or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can include verbal behavior such as suggestive looks or leering; and physical behavior such as pats or squeezes; repeatedly brushing against someone's body; obscene or rude sexual comments, jokes, or suggestions; slang, names, or labels such as 'honey', 'sweetie', 'boy', or 'girl', that others find offensive; talking about or calling attention to another employee's body or sexual characteristics in a negative or embarrassing way; displaying nude or sexual pictures, cartoons, or calendars in or on City property; invitation for dates which do not stop when the response is negative; continuing unwelcome behavior after a co-worker has objected to that behavior; or blaming the victims of sexual harassment for causing the problem.

Examples of sexual harassment may include, but are not limited to:

- Unwanted sexual advances
- Demands for sexual favors in exchange for favorable treatment or continued employment
- Threats and demands to submit to sexual requests to obtain or retain any employment benefit
- Verbal conduct such as epithets, derogatory or obscene comments, slurs or sexual invitations, sexual jokes, propositions, suggestive, insulting, obscene comments or gestures, graphic verbal commentary about an individual's body, sexual prowess, or sexual deficiencies, or other verbal abuse of a sexual nature
- Flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movements
- Visual conduct such as derogatory or sexual posters, photographs, cartoons, drawings, or gestures or other displays in the workplace of sexually suggestive objects or pictures
- Conduct or comments consistently targeted at only one gender, even if the content is not sexual
- Retaliation for having reported or threatened to report sexual harassment.

Conduct of this type is improper, and it may be illegal if:

1. submission to such conduct is made, explicitly or implicitly, a condition of an individual's employment or advancement;

~~2. submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual; or~~

~~3. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.~~

F. The City prohibits discrimination against qualified employees or applicants with a disability. A qualified individual with a disability is someone who satisfies skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

An individual with a disability is a person who has, or had, any sensory, physical, or mental impairment that is medically recognized or diagnosable, exists as a record or history, and/or is perceived by the employer to exist, whether or not it actually exists. A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, limits the ability to work generally or work at a particular job, or limits any other activity.

An employer is required to make a reasonable accommodation to a qualified individual with a disability unless doing so would impose an undue hardship on the operations of the City.

G. Inappropriate conduct is conduct that, while not rising to the level of unlawful discrimination or harassment, communicates a hostile, derogatory, or negative message about persons. Inappropriate conduct can be either verbal or nonverbal and includes slights, insults, and other conduct that a reasonable person would find offensive. Inappropriate conduct is prohibited.

H. This policy covers all individuals in the workplace. The City of Gold Bar will not tolerate, condone, or allow discrimination or inappropriate conduct whether engaged in by employees, supervisors, managers, elected officials, volunteers, or by outside clients, vendors, contractors, or other non-employees who conduct business with the City. Reporting of all incidents is encouraged, regardless of who the offender may be, or of the offender's relationship to the City.

Discrimination and inappropriate conduct are unacceptable in the workplace itself and in other work-related settings such as on business trips or at business related social events.

I. The employer's ability to discipline or impose remedial action for a non-employee for violation of this policy (e.g. vendor, contractor, member of the public, public official, etc.) may be limited by the degree of control, if any, the City of Gold Bar has over the alleged violator of the policy. Nevertheless, any employee who, during the course of their employment, alleges discrimination or harassment on the part of an outside source may use the same reporting procedures listed under the informal, or formal, complaint procedure found in sections 'J' and 'K' of this policy.

J. Informal Complaint Process. The City of Gold Bar encourages individuals who believe they are being discriminated against, harassed, or subjected to inappropriate conduct to promptly notify the offender that their behavior is unwelcome.

If a complaint is resolved informally to the complainant's satisfaction, the supervisor and/or mayor, if they have been notified by the complainant, must file a confidential report with the city clerk about the complaint and resolution so that the City will be aware of any pattern of discrimination by a particular individual and will also be aware of all complaints.

K. Formal Complaint Process. The City of Gold Bar recognizes that the informal complaint process is not always possible. In that event, the following steps should be followed.

1. Description of misconduct. An accurate record of objectionable behavior or misconduct is needed to resolve a formal complaint. Verbal reports are not acceptable. The report must be in writing, by either the complainant or the complainant's direct supervisor, mayor, mayor pro-tem, or city clerk, and must be signed by the complainant. Individuals who believe that they have been, or are currently being discriminated against or harassed, or subjected to inappropriate conduct, should maintain a record of objectionable conduct in order to prepare effectively and substantiate their allegations. Knowingly false accusations will not be tolerated and may result in discipline up to, and including, termination.

2. Time frame for reporting. The City encourages a prompt reporting of complaints so that rapid response and appropriate action may be taken. This not only aids the complainant, but also helps to maintain an environment free from discrimination and inappropriate conduct for all employees. A formal complaint of discrimination, harassment, or inappropriate conduct must be submitted to the supervisor, mayor, mayor pro-tem, or city clerk within thirty (30) days of the alleged incident.

3. Investigating the complaint. Following filing of a formal complaint, the city clerk or mayor will determine if the complaint states a violation of this policy and, if so, will investigate or designate an appropriate impartial person to conduct the investigation.

4. Confidentiality. To the extent practicable and appropriate under the circumstances, and to the extent permitted by law, the proceedings will be conducted to protect the confidentiality interests of both parties and afford the accused a full opportunity to respond to the allegations.

5. Investigation process. The person designated to investigate allegations will, in a timely manner:

- Confirm the name of the complainant and determine the complainant's full account and facts of the complaint
- Identify the employee or employees accused of the complaint
- Thoroughly ascertain facts by interviewing all pertinent parties and witnesses
- Assure that all employees participate in, and cooperate fully, with the investigation. Failure to do so may result in disciplinary action.

Interviews will be conducted impartially and fairly for all parties. When the impartial investigation is concluded, the investigator will prepare a written record and report of the process and results. The investigative report will include:

- A written conclusion about whether a violation of this policy has occurred, based on all the facts and circumstances and context in which the alleged incidents occurred.
- Recommendations of what, if any, corrective and/or preventative measures need to be taken to remedy the situation and ensure no further violations.

L. Resolving the complaint. The city clerk or designee, will make every reasonable effort to issue written findings and a recommendation to the supervisor, mayor, or mayor pro-tem as appropriate, within sixty (60) days of the filing of a formal complaint. The complainant will be notified if additional time is needed to complete the investigation.

If discrimination or inappropriate conduct occurred, the city clerk or designee will consult with the supervisor and/or mayor or mayor pro-tem for a decision concerning discipline, other corrective action, and/or training.

The person violating this policy will be subject to appropriate disciplinary action. If no violation of this policy has occurred, this finding will be communicated to the complainant.

If the city clerk or designee cannot determine whether a violation of this policy has occurred, this finding will be communicated to the complainant and the alleged violator of this policy, and the matter will be recorded as unresolved. Both the complainant and the alleged violator of this policy will be informed again of the procedures set forth in this policy, including the appeal process contained within this policy. In the event that no resolution satisfactory to both parties can be reached based on the initial investigation, the matter shall be referred to the mayor, mayor pro-tem, or legal counsel.

~~D. If you believe that you, or any other employee, applicant, or person who does business with the City of Gold Bar has been harassed or discriminated against in violation of this Policy, you should report the situation to your supervisor as soon as possible. If you are uncomfortable reporting the conduct to your supervisor, you may report it to the Mayor, or Mayor Pro Tempore if the Mayor is your supervisor. In addition, you are encouraged to clearly explain to the person causing the discrimination or harassment that you are uncomfortable with his or her behavior and ask that it stop.~~

~~E. The City will take prompt and appropriate action to investigate and resolve any alleged or suspected incidents of discrimination or harassment. Appropriate corrective and/or disciplinary action, up to, and including, termination, will be taken in all confirmed cases of discrimination or harassment.~~

M. Depending on the nature and severity of the violation, sanctions may include disciplinary action up to and including termination.

Employees whose actions are found to be in violation of this policy may also be referred to mandatory training. If systemic issues come to light, mandatory training may be required for all staff and/or elected officials.

N. Appeal Process. If any party directly involved in an investigation is dissatisfied with the outcome or resolution, that individual has the right to appeal the decision. Within ten (10) days following receipt of notice of the decision, the dissatisfied party must submit a written request for review to the mayor, mayor pro-tem, or council. Upon receipt of request for review, the relevant party will review the complaint and take whatever steps are deemed necessary and appropriate to ensure all facts have been fully investigated, presented, and considered. They will also provide the participants with the opportunity to present evidence and information and to comment on evidence and information presented to others. Finally, they will issue a written findings of facts and a decision. They may uphold, overturn, or modify the results of the initial investigation.

~~F. O. Retaliation means to take adverse employment action against an individual because they have exercised their rights protected by law by complaining in good faith about discrimination, harassment, and/or retaliation, or assisting or participating in an investigation of such allegations.~~

The City will not tolerate retaliation, in any form, against anyone making a complaint or reporting harassment or discrimination or against any person cooperating in a harassment or discrimination investigation. Retaliation is a serious violation of this policy and is considered misconduct subject to disciplinary action up to, and including, termination of employment.

P. The procedures in this policy refer to complaints submitted internally to the City of Gold Bar. If a formal charge has been filed with outside agencies, including filing suit in civil court, all such charges,

complaints, and notices must immediately be delivered to the city clerk and mayor, who will, in cooperation with legal counsel, investigate and respond.

If a complaint, grievance, lawsuit, or other action is initiated regarding matters related to a complaint filed internally under this policy, the city clerk and/or mayor shall have the discretion to discontinue the internal investigation and defer the process to legal counsel.

G. Q. By signing the ‘*Acknowledgement and Receipt*’ form found at the end of this manual, all employees certify that they have read and understood ‘*Title 4, Anti-Discrimination and Anti-Harassment Policy*’.

Section II, Severability

This ordinance is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

Section III, Effective Date

This ordinance shall take effect from, and after, its passage, approval, and publication as provided by law.

Passed by the Council for the City of Gold Bar on this _____ day of _____, 2025.

Attest: _____, Steve Yarbrough, Mayor

Attest: _____, Lisa Stowe, Clerk/Treasurer

First Reading: _____

Posted: _____

Second Reading: _____

Passed: _____