

TOWN OF WARTRACE, TENNESSEE

ORDINANCE NO.

AN ORDINANCE AMENDING THE WARTRACE MUNICIPAL CODE

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF WARTRACE, TENNESSEE:

Section 1. The Wartrace Municipal Code is hereby amended by adding a Chapter 8 to Title 4 to read as follows in its entirety:

CHAPTER 8

SECTION VIII - SEXUAL HARASSMENT

A. PURPOSE

The municipality may be held liable for the actions of all employees with regard to sexual harassment and will not tolerate sexual harassment of its employees. The town will take immediate, positive steps to stop such harassment when it occurs. The town is responsible for acts of sexual harassment in the workplace when the city/town (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city/town took immediate and appropriate corrective action. The municipality may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the municipal government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

This policy applies to all officers and employees of the Town of Wartrace, including but not limited to full- and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulations of the municipal government, and employees working under contract for the municipality. The following rules shall be strictly enforced.

B. DEFINITIONS

The following actions constitute an unlawful employment practice and are absolutely prohibited by the municipal government when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

1. Sexual harassment or unwelcome sexual advances;
2. Requests for sexual favors;
3. Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;

4. Explicit or implied job threats or promises in return for submission to sexual favors;
5. Inappropriate sex-oriented comments on appearance;
6. Embarrassing sex-oriented stories;
7. Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. Sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

C. MAKING SEXUAL HARASSMENT COMPLAINTS

An employee who feels he/she is subjected to sexual harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. **(Any number of individuals may be chosen. The object is to give several options to a harassment victim in the event the harasser is the immediate supervisor.)** Complaints may be made orally or in writing to:

1. The employee's immediate supervisor,
2. The employee's department head,
3. The recorder,
4. The mayor, and/or
5. The board of mayor and aldermen/commission/council.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about sexual harassment. The employee should be prepared to provide the following information:

1. His/her name, department, and position title;
2. The name of the person or people committing the sexual harassment, including their title(s), if known;
3. The specific nature of the sexual harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other

threats made against the employee as a result of the harassment;

4. Witnesses to the harassment; and
5. Whether the employee has previously reported the harassment and, if so, when and to whom.

D. REPORTING AND INVESTIGATING SEXUAL HARASSMENT COMPLAINTS

The Mayor is the person the municipal government designates as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the Mayor, the investigator shall be a municipal employee appointed by the Board.

When an allegation of sexual harassment is made by any employee, the investigator shall:

1. Immediately prepare a report of the complaint according to the preceding section and submit it to the Board.
2. Make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:
 - a. Verbal responses made to the investigator by the person complaining of sexual harassment,
 - b. Witnesses interviewed during the investigation,
 - c. The person against whom the complaint of sexual harassment was made, and
 - d. Any other person contacted by the investigator in connection with the investigation;
3. Within 10 days of receiving the complaint, prepare and present the findings to the Board in a report, which will include:
 - a. The written statement of the person complaining of sexual harassment,
 - b. The written statements of witnesses,
 - c. The written statement of the person against whom the complaint of sexual harassment was made, and
 - d. All the investigator's notes connected to the investigation.

E. ACTION ON COMPLAINTS OF SEXUAL HARASSMENT

Upon receiving an investigation report of a sexual harassment complaint, the Board shall immediately review the report. If the Board determines that the report is not complete in some respect, it may question the person complaining of sexual harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person who may have knowledge about the harassment.

Based upon the report and its own investigation (where a separate investigation is made), the Board shall, within a reasonable time, determine whether the conduct in question constitutes sexual harassment. In making that determination, the Board shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. Whether sexual harassment took place will be determined on a case-by-case basis.

If the Board determines that the harassment complaint is founded, he/she shall take immediate and appropriate disciplinary action against the guilty employee, consistent with its authority under the municipal charter, ordinances, resolutions, or rules governing its authority to discipline employees. If the governing body determines that the sexual harassment complaint is founded, it may discipline the employee consistent with its authority under the municipal charter, ordinances, resolutions, or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the employee's rank, and any other factors the governing body believes relate to fair and efficient administration of the municipal government. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the municipality. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. Determining the level of disciplinary action shall also be made on a case-by-case basis. A written record shall be kept of imposed disciplinary actions, including verbal reprimands.

In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation.

In cases where sexual harassment is committed by a non-employee against a municipal government employee in the workplace, the Board shall take whatever lawful action is necessary against the non-employee to bring the sexual harassment to an immediate end.

F. OBLIGATION OF EMPLOYEES

Employees are not only encouraged to report instances of sexual harassment; they are **obligated** to report them. Employees are also obligated to cooperate in every harassment investigation. The obligation includes, but is not necessarily limited to, coming forward with evidence (both favorable and unfavorable) about a person accused of such conduct, fully and truthfully making written reports, or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may be taken against employees who fail to report instances of sexual

harassment fail or refuse to cooperate in the sexual harassment investigation, or file a complaint of sexual harassment in bad faith.

Section 2. This ordinance shall become effective upon final passage, the public welfare requiring it.

Passed this: First Reading:_____

Second Reading:_____

Third Reading:_____

Mayor: _____

Don Gallagher

Attest: _____

Laura Gentry

City Recorder