

ORDINANCE 2019-252

TO AMEND CHAPTER 3-A AND 3-B OF THE CODE OF ORDINANCES, CONSISTING OF SECTIONS 3.7.15 and 3.41.7, TO PROVIDE FOR SEXUAL HARASSMENT PREVENTION; AND TO PROVIDE FOR RELATED MATTERS.

BE IT ORDAINED by the Council Members of the Town of Livonia, Louisiana:

Section 1. Chapter 3-A and 3-B of the Code of Ordinances of the Town of Livonia, consisting of Section 3.7.15 and 3.41.7 is hereby amended to read as follows:

CHAPTER 3-A. SEXUAL HARASSMENT PREVENTION

Section 3.7.15. Definitions

Unless the context clearly indicates otherwise, the following words and terms, when used in this Chapter, shall have the following meanings:

- (1) "Agency" means a department, office, division, agency, commission, board, committee, or other organizational unit of the municipality.
- (2) "Agency head" means the chief executive or administrative officer of the municipality or of a municipal agency or the chairman of a municipal board or commission.
- (3) "Elected official" means any person holding a municipal office which is filled by the vote of the appropriate electorate. It shall also include any person appointed to fill a vacancy in such office.
- (4) "Public employee" means anyone who is:
 - (a) A municipal administrative officer or official who is not filling an elective office.
 - (b) Appointed to a municipal post or position created by rule, law, resolution, ordinance, charter, or executive order.
 - (c) Employed by a municipal agency, officer, or official.
- (5) "Public servant" means a public employee or an elected official.

Section 3.7.16. Sexual harassment prohibited

A. Sexual harassment of or by a public servant is prohibited. Unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with

an individual's work performance, or creates an intimidating, hostile, or offensive work environment and shall not be tolerated.

B. Per federal Equal Employment Opportunity Commission guidelines, sexual harassment means any unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- (3) 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.

C. (1) Complaints of sexual harassment may be directed to the appropriate department head, or in writing, to the mayor. A complainant is strongly encouraged to consult initially with his department head to attempt informal resolution, but failure to do so will in no way limit the right to utilize fully this grievance procedure if resolution cannot be accomplished through the department head. Complaints should be made within thirty (30) days after occurrence of the alleged prohibited conduct.

(2) All complaints of sexual harassment, and information and proceedings relating thereto, shall be kept in strict confidence except as otherwise specified herein.

D.(1) The recipient of a sexual harassment complaint shall immediately conduct an investigation of the complaint, interviewing appropriate persons, examining relevant records, and consulting with and utilizing any appropriate public servant.

(2) If the recipient of the complaint deems it appropriate, the complainant and the person against whom the complaint is made may be brought together to attempt a resolution.

(3) Both the complainant and the person against whom the complaint is made may have counsel present at any interview or other proceeding.

E. (1) Upon conclusion of the investigation, and within thirty (30) days after the complaint was brought; the recipient of the complaint shall make a written recommendation to the mayor which shall be one of the following:

- (a) A recommendation of a finding that no prohibited conduct has occurred.
- (b) A recommendation that material facts in dispute be resolved by conducting a formal hearing.

(c) A recommendation of a finding that no facts are in dispute and that prohibited conduct has occurred.

(2) Copies of the department head's written recommendation shall be provided to the complainant and the party against whom the complaint was made.

F. The mayor may, but need not, adopt the department head's recommendation. The mayor may adopt the department head's recommendation of a finding that prohibited conduct has occurred, and proceed under Subsection I of this Section. The mayor may adopt the department head's recommendation of finding of no cause, and issue a written determination dismissing the complaint.

G.(1) Upon adoption of the department head's recommendation to conduct a formal hearing, or upon written request of a party accompanied by a showing of material facts in dispute, the mayor shall conduct or cause to be conducted a formal hearing. The hearing shall provide an opportunity for parties and witnesses to be heard, shall be conducted so as to do substantial justice between the parties, and shall not be bound by statutory provisions or rules of practice, procedure, pleading, or evidence. At the conclusion of the hearing, the mayor shall issue a written statement of findings of facts and conclusions of law, including a determination as to whether or not prohibited conduct has occurred.

(2) Notwithstanding Paragraph (1) of this Subsection, if an elected official is the subject of the complaint, the hearing shall be conducted by the mayor and the council. If the mayor or a council member is the subject of the complaint, he is recused on the matter and shall not participate as a member thereof.

H. The record maintained with respect to each complaint of sexual harassment shall contain: the written complaint, if any; any written statement produced during the investigation; the recommendation of the department head; if a formal hearing is conducted, a record thereof in a form determined by the mayor; the mayor's statement of findings of fact and conclusions of law; and the mayor's written determination. Such record shall be available to either party or the designee thereof.

I. (1) Remedies applicable to prohibited conduct by a public employee other than an employee of the police department. If the mayor determines that prohibited conduct by a public employee other than an employee of the police department has occurred, the mayor shall order one or more of the following remedies, subject to and in accordance with R.S. 33:403(A)(3):

(a) An apology by the offender.

(b) Direct the offender to stop the offensive behavior.

(c) Require the offender undergo counseling or training.

(d) Oral censure of the offender.

- (e) Written censure of the offender, to be included in the offender's personnel file.
 - (f) Transfer, suspension, with or without pay, or discharge of the offender or any other action which may be appropriate under the circumstances.
- (2) Remedies applicable to prohibited conduct by a public employee of the police department. If the chief of police determines that prohibited conduct by a public employee of the department has occurred, the chief shall recommend to the mayor and board one or more of the following remedies:
- (a) An apology by the offender.
 - (b) Direct the offender to stop the offensive behavior.
 - (c) Require the offender undergo counseling or training.
 - (d) Oral censure of the offender.
 - (e) Written censure of the offender, to be included in the offender's personnel file.
 - (f) Transfer, suspension, with or without pay, or discharge of the offender or any other action which may be appropriate under the circumstances, subject to and in accordance with R.S. 33:403(A)(3) if applicable.
- (3) Remedies applicable to prohibited conduct by an elected official. If the mayor and council determines that prohibited conduct by an elected official has occurred, the mayor and council shall order one or more of the following remedies:
- (a) Oral reprimand of the offender.
 - (b) Written reprimand of the offender.
 - (c) Any other action which may be appropriate under the circumstances.
- J. If any party is not satisfied with the outcome of the procedure, appeal may be taken directly to the mayor.
- K.(1) State and federal law provide administrative and judicial remedies which may be pursued by filing a complaint with the Louisiana Commission on Human Rights and the federal Equal Employment Opportunity Commission. A civil action may be filed in district court. However, it is recommended, but not legally required, that the complainant first use the procedure established herein.
- (2) Sexual harassment is a form of sex discrimination under federal law (Section 703 of Title VII of the Civil Rights Act of 1964, as amended).

(3) Sexual harassment is found in state law at the Louisiana Employment Discrimination Law (R.S. 23:301-303 and 332) and R.S. 42:341- 345 (prevention of sexual harassment).

L. No public servant shall be subject to retaliation in any form as a result of filing a complaint or testifying or participating in any way in an investigation or other proceeding involving a complaint of sexual harassment. A complaint of such retaliation should be directed to the appropriate department head or in writing to the mayor.

M. No public servant shall make an intentionally false complaint.

Section 3.7.17. Required training

A.(1) Each public servant of the municipality shall receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of his public employment or term of office, as the case may be.

(2) The mayor shall require supervisors and any persons designated by the municipality to accept or investigate a complaint of sexual harassment in the town to receive additional education and training.

B. The education and training required pursuant to this Section may be received either in person or via the internet through training and education materials approved by the mayor.

C. The mayor shall ensure that each public servant of the municipality is notified of the municipality's policy against sexual harassment and the mandatory training requirement on preventing sexual harassment. The mayor, or his designee, shall be responsible for maintaining records of the compliance of each public servant of the municipality with the mandatory training requirement.

D. The mayor shall ensure that a notice on how to obtain the municipal policy against sexual harassment and its complaint procedure is posted in a conspicuous location in each municipal office.

Section 3.7.18. Annual report

A. The mayor shall compile an annual report by February first of each year containing information from the previous calendar year regarding the municipality's compliance with the requirements of Section 3.7.17 including the number and percentage of public servants of the municipality who have completed the training requirements, the number of sexual harassment complaints received by the municipality, the number of complaints which resulted in a finding that sexual harassment occurred, the number of complaints in which the finding of sexual harassment resulted in discipline or corrective action, and the amount of time it took to resolve each complaint.

B. The annual report shall be kept and maintained by the municipality as a public record.

CHAPTER 3-B. SEXUAL HARASSMENT PREVENTION

Section 3.41.7. Definitions

Unless the context clearly indicates otherwise, the following words and terms, when used in this Chapter, shall have the following meanings:

- (1) "Agency" means a department, office, division, agency, commission, board, committee, or other organizational unit of the municipality.
- (2) "Agency head" means the chief executive or administrative officer of the municipality or of a municipal agency or the chairman of a municipal board or commission.
- (3) "Elected official" means any person holding a municipal office which is filled by the vote of the appropriate electorate. It shall also include any person appointed to fill a vacancy in such office.
- (4) "Public employee" means anyone who is:
 - (a) A municipal administrative officer or official who is not filling an elective office.
 - (b) Appointed to a municipal post or position created by rule, law, resolution, ordinance, charter, or executive order.
 - (c) Employed by a municipal agency, officer, or official.
- (5) "Public servant" means a public employee or an elected official.

Section 3.41.8. Sexual harassment prohibited

A. Sexual harassment of or by a public servant is prohibited. Unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment and shall not be tolerated.

B. Per federal Equal Employment Opportunity Commission guidelines, sexual harassment means any unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

(2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or

(3) 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.

C. (1) Complaints of sexual harassment may be directed to the appropriate department head, or in writing, to the mayor. A complainant is strongly encouraged to consult initially with his department head to attempt informal resolution, but failure to do so will in no way limit the right to utilize fully this grievance procedure if resolution cannot be accomplished through the department head. Complaints should be made within thirty (30) days after occurrence of the alleged prohibited conduct.

(2) All complaints of sexual harassment, and information and proceedings relating thereto, shall be kept in strict confidence except as otherwise specified herein.

D.(1) The recipient of a sexual harassment complaint shall immediately conduct an investigation of the complaint, interviewing appropriate persons, examining relevant records, and consulting with and utilizing any appropriate public servant.

(2) If the recipient of the complaint deems it appropriate, the complainant and the person against whom the complaint is made may be brought together to attempt a resolution.

(3) Both the complainant and the person against whom the complaint is made may have counsel present at any interview or other proceeding.

E. (1) Upon conclusion of the investigation, and within thirty (30) days after the complaint was brought; the recipient of the complaint shall make a written recommendation to the mayor which shall be one of the following:

(a) A recommendation of a finding that no prohibited conduct has occurred.

(b) A recommendation that material facts in dispute be resolved by conducting a formal hearing.

(c) A recommendation of a finding that no facts are in dispute and that prohibited conduct has occurred.

(2) Copies of the department head's written recommendation shall be provided to the complainant and the party against whom the complaint was made.

F. The mayor may, but need not, adopt the department head's recommendation. The mayor may adopt the department head's recommendation of a finding that prohibited conduct has occurred, and proceed under Subsection I of this Section. The mayor may

adopt the department head's recommendation of finding of no cause, and issue a written determination dismissing the complaint.

G.(1) Upon adoption of the department head's recommendation to conduct a formal hearing, or upon written request of a party accompanied by a showing of material facts in dispute, the mayor shall conduct or cause to be conducted a formal hearing. The hearing shall provide an opportunity for parties and witnesses to be heard, shall be conducted so as to do substantial justice between the parties, and shall not be bound by statutory provisions or rules of practice, procedure, pleading, or evidence. At the conclusion of the hearing, the mayor shall issue a written statement of findings of facts and conclusions of law, including a determination as to whether or not prohibited conduct has occurred.

(2) Notwithstanding Paragraph (1) of this Subsection, if an elected official is the subject of the complaint, the hearing shall be conducted by the mayor and the council. If the mayor or a council member is the subject of the complaint, he is recused on the matter and shall not participate as a member thereof.

H. The record maintained with respect to each complaint of sexual harassment shall contain: the written complaint, if any; any written statement produced during the investigation; the recommendation of the department head; if a formal hearing is conducted, a record thereof in a form determined by the mayor; the mayor's statement of findings of fact and conclusions of law; and the mayor's written determination. Such record shall be available to either party or the designee thereof.

I. (1) Remedies applicable to prohibited conduct by a public employee other than an employee of the police department. If the mayor determines that prohibited conduct by a public employee other than an employee of the police department has occurred, the mayor shall order one or more of the following remedies, subject to and in accordance with R.S. 33:403(A)(3):

(a) An apology by the offender.

(b) Direct the offender to stop the offensive behavior.

(c) Require the offender undergo counseling or training.

(d) Oral censure of the offender.

(e) Written censure of the offender, to be included in the offender's personnel file.

(f) Transfer, suspension, with or without pay, or discharge of the offender or any other action which may be appropriate under the circumstances.

(2) Remedies applicable to prohibited conduct by a public employee of the police department. If the chief of police determines that prohibited conduct by a public

employee of the department has occurred, the chief shall recommend to the mayor and board one or more of the following remedies:

- (a) An apology by the offender.
 - (b) Direct the offender to stop the offensive behavior.
 - (c) Require the offender undergo counseling or training.
 - (d) Oral censure of the offender.
 - (e) Written censure of the offender, to be included in the offender's personnel file.
 - (f) Transfer, suspension, with or without pay, or discharge of the offender or any other action which may be appropriate under the circumstances, subject to and in accordance with R.S. 33:403(A)(3) if applicable.
- (3) Remedies applicable to prohibited conduct by an elected official. If the mayor and council determines that prohibited conduct by an elected official has occurred, the mayor and council shall order one or more of the following remedies:
- (a) Oral reprimand of the offender.
 - (b) Written reprimand of the offender.
 - (c) Any other action which may be appropriate under the circumstances.

J. If any party is not satisfied with the outcome of the procedure, appeal may be taken directly to the mayor.

K.(1) State and federal law provide administrative and judicial remedies which may be pursued by filing a complaint with the Louisiana Commission on Human Rights and the federal Equal Employment Opportunity Commission. A civil action may be filed in district court. However, it is recommended, but not legally required, that the complainant first use the procedure established herein.

(2) Sexual harassment is a form of sex discrimination under federal law (Section 703 of Title VII of the Civil Rights Act of 1964, as amended).

(3) Sexual harassment is found in state law at the Louisiana Employment Discrimination Law (R.S. 23:301-303 and 332) and R.S. 42:341- 345 (prevention of sexual harassment).

L. No public servant shall be subject to retaliation in any form as a result of filing a complaint or testifying or participating in any way in an investigation or other proceeding involving a complaint of sexual harassment. A complaint of such retaliation should be directed to the appropriate department head or in writing to the mayor.

M. No public servant shall make an intentionally false complaint.

Section 3.41.9. Required training

A.(1) Each public servant of the municipality shall receive a minimum of one hour of education and training on preventing sexual harassment during each full calendar year of his public employment or term of office, as the case may be.

(2) The mayor shall require supervisors and any persons designated by the municipality to accept or investigate a complaint of sexual harassment in the town to receive additional education and training.

B. The education and training required pursuant to this Section may be received either in person or via the internet through training and education materials approved by the mayor.

C. The mayor shall ensure that each public servant of the municipality is notified of the municipality's policy against sexual harassment and the mandatory training requirement on preventing sexual harassment. The mayor, or his designee, shall be responsible for maintaining records of the compliance of each public servant of the municipality with the mandatory training requirement.

D. The mayor shall ensure that a notice on how to obtain the municipal policy against sexual harassment and its complaint procedure is posted in a conspicuous location in each municipal office.

Section 3.41.10. Annual report

A. The mayor shall compile an annual report by February first of each year containing information from the previous calendar year regarding the municipality's compliance with the requirements of Section 3.41.9 including the number and percentage of public servants of the municipality who have completed the training requirements, the number of sexual harassment complaints received by the municipality, the number of complaints which resulted in a finding that sexual harassment occurred, the number of complaints in which the finding of sexual harassment resulted in discipline or corrective action, and the amount of time it took to resolve each complaint.

B. The annual report shall be kept and maintained by the municipality as a public record.

This ordinance shall become effective immediately.

Said Ordinance having been introduced on April 8, 2019, by Greg Jarreau, notice of public hearing having been published, said public hearing having been held, the title having been read, and the Ordinance considered, a motion was made by Ron LeBlanc and seconded by Terry Jarreau to adopt the Ordinance. A record vote was taken and the following results were had:

YEAS: Bergeron, G. Jarreau, T. Jarreau, LeBlanc, Pourciau
NAYS: None
ABSENT: None
ABSTAIN: None

Whereupon, the Ordinance was declared adopted on this 13th day of May 2019

ATTEST and delivered to the Mayor
May 14, 2019
Donna Bergeron, MMC
Town Clerk, Livonia, Louisiana

APPROVED and delivered to the Clerk
May 14, 2019
Rhett Pourciau, MAYOR
Town of Livonia, Louisiana

Published in official journal on May 16, 2019.