

**TOWN OF GILCREST, COLORADO
RESOLUTION 2023-13**

**A RESOLUTION AMENDING THE PERSONNEL HANDBOOK OF THE TOWN OF
GILCREST TO COMPLY WITH THE PROTECTING OPPORTUNITIES AND WORKERS'
RIGHTS ACT**

WHEREAS, the Board of Trustees of the Town of Gilcrest adopted the Town of Gilcrest Personnel Handbook on November 10, 2014 and amended same from time to time; and,

WHEAREAS, the Board of Trustees wishes to amend the handbook to comply with Senate Bill 23-172 the Protecting Opportunities and Workers' Rights (POWR) Act

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE
TOWN OF GILCREST, COLORADO**

Section 1: Section IV of Employee Handbook of the Town of Gilcrest is hereby amended to read as follows:

IV. EQUAL EMPLOYMENT OPPORTUNITY.

A. Introduction.

1. It is the policy of the Town to ensure equal employment opportunity:

- a. Regardless of a person's disability, race, religion, color, creed, national origin, ancestry, sex, sexual orientation, gender identity, gender expression, age, or marital status except as provided for in section V.E. Nepotism; and
- b. To persons with disabilities who are otherwise qualified to perform the essential functions of a position of Town employment with or without reasonable accommodation, unless there is no reasonable accommodation that the Town can make with regard to the disability that would allow the individual to satisfy the essential functions of the job.

2. The goals and objectives of the Town's equal employment opportunity policy are to:

- a. Ensure fair treatment and non-discrimination in hiring, employment, and promotion; and
- b. Comply with applicable laws and regulations on equal employment opportunity.

c. With regard to otherwise qualified persons with disabilities, provide reasonable accommodations as provided in the Americans with Disabilities Act, and the Colorado Protecting Opportunities and Workers' Rights (POWR) Act including:

(1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position that the applicant desires;

(2) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position in question is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; and

(3) Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Section 2: Section IX of Employee Handbook of the Town of Gilcrest is hereby amended to read as follows:

IX. HARASSMENT.

A. Introduction.

1. It is the policy of the Town that all employees are entitled to work in an environment free of harassment. harassment will not be tolerated. A prompt investigation of all claims and complaints of harassment will be undertaken, and effective and appropriate corrective action will be taken when determined to be warranted based on the investigation.
2. Petty slights, minor annoyances, and lack of good manners may not constitute harassment unless that behavior "when taken individually or in combination and under the totality of the circumstances" meets the definitions of harassment below.

B. Harassment Described

1. any "unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class" that "is subjectively offensive to the individual alleging harassment" and "objectively offensive to a reasonable individual who is a member of the same protected class."

a. protected class includes, disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry.

C. Sexual Harassment Described.

1. Unwelcome sexually-related conduct, including sexual advances, requests for sexual favors, or other physical, verbal, or written conduct of a sexual nature constitutes sexual harassment when:

- a. Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to or rejection of the conduct by an individual is used as the basis for employment decisions affecting that individual; or
- c. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment.

2. Examples of conduct which may constitute sexual harassment include, but are not limited to: pinching; grabbing; fondling; propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making sexually-oriented comments on appearance or physical features; telling sexually-oriented stories or jokes; and display or circulation of sexually-oriented pictures or photographs

C. Actionable Harassment

1. Conduct or communication constitutes actionable harassment if:
 - a. submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment";
 - b. submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual;
 - c. the conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Petty slights, minor annoyances, and lack of good manners will not be deemed harassment unless that behavior when taken individually or in combination and under the totality of the circumstances meets the definitions of harassment above.

D. Procedures.

1. Any employee who believes that he or she is being subjected to harassment or sexual harassment should inform the person responsible for the conduct that such conduct is unwelcome and plainly request that it stop immediately.

2. The employee shall inform the Town of the harassment by notifying his/her immediate supervisor, department head, the Appointing Authority, or the Mayor, as the employee chooses. The notification may be in the form chosen by the employee; the employee is urged to put the notification in writing.

3. No employee shall be subjected to reprisal or retaliation for making such a notification. The employee should report immediately any incidents of reprisal, retaliation, or harassment which occur as a result of making such a notification.

4. Upon notification, an investigation will be undertaken promptly. Disciplinary and/or corrective action will be taken when determined to be warranted pursuant to the investigation. The complaining employee will be notified of the results of the investigation.

5. To the extent possible, complaints and investigations will be handled in a confidential manner.

6. If it is determined that any employee's conduct constitutes harassment, the employee shall be subject to corrective and/or disciplinary action. . Petty slights, minor annoyances, and lack of good manners will not be deemed harassment unless that behavior when taken individually or in combination and under the totality of the circumstances meets the definitions of harassment above. Corrective and/or disciplinary action may include verbal or written reprimand, suspension, or discharge as justified based on the findings of the investigation.

Section 3: Section XVI of Employee Handbook of the Town of Gilcrest is hereby amended to read as follows:

XVI. PERSONNEL RECORDS.

- A. The Appointing Authority will keep and maintain each employee's official personnel record. He/she shall maintain all personnel and employment records for a period of five years from the later of the date the employer created or received the employment record, the date the personnel action giving rise to the personnel record occurred, or the final disposition of a charge of discrimination or related action.
- B. Personnel records are defined to include:
1. requests for accommodations;
 2. application forms submitted by applicants for employment;
 3. other records related to hiring, promotion, demotion, transfer, layoff, termination, rates of pay or other terms of compensation;

4. selection for training or apprenticeship; and

5. records related to employees selected for training.

C. The Appointing Authority shall maintain the records of all written and oral complaints of discrimination, harassment, or unfair employment practices, including "the date of the complaint, the identity of the complaining party, if the complaint was not made anonymously, the identity of the alleged perpetrator, and the substance of the complaint.

D. Neither the Appointing Authority, nor any department head, nor any supervisor shall provide any information concerning an employee's employment status in response to a reference request, except the employee's beginning and ending dates of Town employment and positions held with the Town.

E. No documents shall be released from a personnel record, except as required by the Open Records Act, without a written request from the employee designating the documents to be released and the person or entity to which the release is to be made, and indemnifying and holding harmless the Town from any liability, claims, and demands resulting from such release.

ADOPTED, this 11th day of September, 23



Steve Nothem, Mayor



ATTEST:



Brenda Joseph, Town Clerk