

Councilor _____ introduced the following ordinance:

Ordinance No. 9, 2015 Series
City of Caribou
County of Aroostook
State of Maine

AN ORDINANCE AMENDING CHAPTER 2 ADMINISTRATION

Short Title: An ordinance modifying the City's Harassment Policy

The City Council of the City of Caribou, County of Aroostook, State of Maine, pursuant to the requirements of the City of Caribou Charter, Section 2.11 (1) does ordain the following:

Section: Harassment Policy of Chapter 2, Administration, of the Caribou City Ordinances shall be modified to read as follows:

SEXUAL HARRASSMENT POLICY

It is the intent of the City of Caribou to provide a work environment that is free from discrimination or harassment. Therefore, it is the policy of the City that any form of sexual ~~and verbal~~ harassment, including both verbal and physical, is unacceptable conduct in the workplace and will not be tolerated from any source, including supervisors, co-workers and non-employees. Employees are encouraged to assist the City with its goal of maintaining a workplace free of sexual ~~and verbal~~ harassment and with its commitment to deal seriously with allegations of sexual ~~and verbal~~ harassment when they arise.

Sexual Harassment Is Illegal under State and Federal Law. Per State Law MRSA; Title 26.

It is illegal for any employee to sexually harass another employee, and for any supervisory employee to permit any act of sexual harassment in the workplace by anyone, whether or not an employee.

Definition of Sexual Harassment under State and Federal Law per State Law MRSA; Title 26..

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

1. this conduct explicitly or implicitly affects an individual's employment~~submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;~~
2. submission to, or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Description of Sexual Harassment¹.

- A. Physical assaults of a sexual nature such as:
 - 1. Rape, sexual battery, molestation or attempts to commit these assaults; and
 - 2. intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another's body, or poking another employee's body.
- B. Unwanted sexual advances, propositions or other sexual comments, such as:
 - 1. sexually-oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct in his/her presence is unwelcome;
 - 2. Preferential treatment or promise of preferential treatment to an employee for submitting or attempting to solicit any employee to engage in sexual activity for compensation or reward; and
 - 3. subjecting or threatening to subject, an employee to unwelcome sexual attention or conduct or making performance of an employee's job more difficult because of that employee's sex.
- C. Sexual or discriminatory displays or publications anywhere in the organization by employees such as:
 - 1. displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic, or bringing into the work environment or possessing any such material to read, display or view at work.
 - 2. Reading or otherwise publicizing in the work environment material that are in any way sexually demeaning or pornographic; and
 - 3. Displaying signs or other material purporting to segregate an employee by sex in any area of the workplace (other than restrooms and similar semi-private lockers/ changing rooms.)

D. Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- 1. The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- 2. The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

¹ The descriptions in this Section are not meant to be exhaustive.

3. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

4. Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

5. The harasser's conduct must be unwelcome.

Resolving Harassment

Any employee who believes he or she has been harassed should take the following steps to resolve the problem:

1. If an employee finds someone's behavior offensive, they may attempt to resolve the behavior by calmly but firmly informing the individual that they find the behavior offensive and requesting that the behavior cease. However, an employee who believes he or she has been subjected to offensive behavior is not required to confront the offending individual before registering a complaint.

2. ~~If the harassment continues and/or the employee does not feel comfortable discussing the behavior with the individual(s) involved, or if they believe some employment consequence may result from his/her confrontation with the individual whose behavior offends them, they should~~ They may register a complaint orally or in writing with any supervisor, the Equal Employment Opportunity Officer (EEO Officer), or with the City Manager.

Any supervisory or management level employee, including the City Manager, who receives an oral or written complaint of sexual harassment from an employee must report the complaint to the City's EEO Officer within five (5) business days of receiving such a complaint. Any supervisory employees who fail to meet this requirement may be subject to discipline.

Any supervisory or management level employee, including the City Manager, with actual knowledge of what he or she believes is conduct that has or may contribute to a sexually hostile work environment must report his or her knowledge of this conduct to the City's EEO Officer within five (5) business days of obtaining such knowledge. Any supervisory or management level employees who fail to meet this requirement will be subject to discipline.

Within twenty (20) days of the EEO Officer's receipt of a complaint of sexual harassment or receipt of information from a supervisor about sexual harassment, the EEO Officer shall inform the alleged victim of harassment that the allegations of sexual harassment will be promptly investigated.

An independent investigator who does not work for the City and who has expertise in investigating harassment complaints will investigate all complaints of sexual harassment promptly and objectively.

During the course of a sexual harassment investigation, the person who is the alleged victim of sexual harassment is not required to meet with the alleged sexual harasser, work with the alleged sexual harasser, or discuss the allegations of harassment in the presence of the alleged sexual harasser.

The City will provide the results of sexual harassment investigations to the alleged victim of harassment in writing as soon as possible, but in no event later than thirty (30) workdays after the commencement of the investigation, unless a written explanation is provided to the alleged victim as to the reason(s) that the investigation could not be completed within thirty (30) workdays.

Confirmed instances of ~~verbal or~~ sexual harassment will be dealt with by utilizing whatever disciplinary action the City deems appropriate, up to and including termination.

For this harassment policy “supervisory employee,” “supervisor” and “management level employee” are defined to include: (a) any employee who possesses the authority to direct the work activities of at least one other employee and (b) any employee who has the authority to hire, fire, promote, transfer, or discipline another employee.

[Legal Recourse through the Maine Human Rights Commission or the U.S. Equal Employment Opportunity Commission.](#)

With regard to a sexual harassment complaint, if the employee does not want to make the report internally, the employee may make the complaint to the Maine Human Rights Commission ([MHRC](#)) or the U.S. Equal Employment Opportunity Commission ([EEOC](#)). [Contact information for the MHRC and EEOC is as follows: which is located at the State House Station 51, Augusta, Maine, 04333, telephone number 289-2326.](#)

[Maine Human Rights Commission](#)
[51 State House Station](#)
[Augusta, ME 04333-0051](#)
[Ph. 207-624-6290](#)
[www.maine.gov/mhrc](#)

[U.S. Equal Employment Opportunity Commission](#)
[John F. Kennedy Federal Building](#)
[475 Government Center](#)
[Boston, MA 02203](#)
[Ph. 1-800-669-4000](#)
[www.eeoc.gov](#)

Any complaint must be filed with the [MHRC or EEOC within 300](#) ~~Commission within 180~~ days of the [last](#) act of harassment. Once a signed charge form has been received by the [MHRC or EEOC](#) ~~Commission~~, an investigation will be conducted and a determination will be made by the

MHRC or EEOC Commission of whether or not there are reasonable grounds to believe sexual harassment occurred.

If the MHRC or EEOC Commission determined that sexual harassment did occur, it will attempt to resolve the situation between you and your employer through informal means. If informal means of resolution are unsuccessful, the MHRC or U.S. Department of Justice Commission counsel may file a civil action in court on your behalf in Superior Court seeking appropriate relief for you. Regardless of whether the MHRC or EEOC determine that sexual harassment occurred, the employee who believes he or she was the victim of sexual harassment may file a civil action in court.

Maine Human Rights Act Protection against Retaliation for Complaining about Sexual Harassment.

Any employee who opposes conduct he or she believes in good faith violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended which includes but is not limited to reporting, complaining about or filing a claim concerning sexual harassment with the City, filing an EEOC or MHRC charge, and/or participating in any manner in an investigation or proceeding or hearing under Title VII, shall not be subjected to retaliation.

This notice is provided to all employees in compliance with 26 M.R.S.A. 807(2). If anyone has any questions regarding this notification, please ask your supervisor, the EEO Officer, or contact the City Manager.

This ordinance, being introduced on _____, 2015 and a public hearing being held on _____, 2015 was duly passed by the City Council of the City of Caribou, Maine, this _____ day of _____ 2015.

Gary Aiken, Mayor

David Martin, Councilor

Shane McDougall, Councilor

Tiffany Stewart, Councilor

Philip J. McDonough II, Councilor

Jody Smith, Councilor

Joan Theriault, Councilor

Attest:

Jayne R. Farrin, City Clerk