

# EMPLOYEE HANDBOOK

## UPDATE 2020



OFFICIAL CITY OF FLORENCE POLICY UPDATES

During the 2019 Oregon State Legislative Session, the legislature passed several bills, which created or expanded various employment laws. As a result, the City of Florence is required to adopt new policies and inform current and future employees of these legislative updates. Employees are asked to acknowledge receipt of these policies by signing below. The policies identified within this document are effective January 1, 2020. These policies supersede and replace previous policies on the subjects.

If you have any questions about the policies, please reach out to Human Resources or your manager or supervisor.

### EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICIES

The following EEO Policies apply to all employees. Members of management, elected officials, and employees alike are expected to adhere to and enforce the following EEO Policies. Any employee's failure to do so may result in discipline, up to and including termination.

All employees are encouraged to discuss these EEO Policies with Human Resources at any time if they have questions relating to the issues of harassment, discrimination, or bullying, or what it means to work in a respectful workplace.

#### A. EQUAL OPPORTUNITY

The City of Florence provides equal employment opportunity to all qualified employees and applicants without unlawful regard to race, color, religion, sex, gender identity, pregnancy (including childbirth and related medical conditions), sexual orientation, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other status protected by applicable federal, Oregon, or local law. The City of Florence also recognizes an employee's right to engage in protected activity under Oregon and federal law, as discussed in various policies below, and will not retaliate against an employee for engaging in protected activity.

The City of Florence's commitment to equal opportunity applies to all aspects of the employment relationship — including but not limited to, recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

#### B. STATEMENT REGARDING PAY EQUITY

The City of Florence supports Oregon's Pay Equity Law and federal and Oregon laws prohibiting discrimination between employees based on a protected class (as defined by Oregon law) in the payment of wages or other compensation for work of comparable character. Employees who believe they are receiving wages or other compensation at a rate less than that at which the City of Florence pays wages or other compensation to other employees for work of comparable character are encouraged to discuss the issue with Human Resources.

#### C. NO-HARASSMENT POLICY

The City of Florence prohibits harassment of any kind or sexual assault in the workplace, or harassment or sexual assault outside of the workplace that violates its employees, volunteers, and interns' right to work in a harassment-free workplace. Specifically, City of Florence prohibits harassment or conduct related to an individual's race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Each member of management is responsible for creating an atmosphere free of discrimination, harassment, sexual assault, and bullying. Further, all employees are responsible for respecting the rights of other employees and to refrain from

engaging in conduct prohibited by this policy, regardless of the circumstances, and regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their immediate supervisor, any member of the management team, or with Human Resources, at any time if they have questions relating to the issues of discrimination, harassment, or bullying.

This policy applies to and prohibits sexual or other forms of harassment that occur during working hours, during City of Florence–related or –sponsored trips (such as conferences or work-related travel), and during non-working hours when that off-duty conduct creates an unlawful hostile work environment for any of City of Florence’s employees. ***Such harassment is prohibited whether committed by City of Florence employees or by non-employees (including elected officials, members of the community, volunteers, interns, and vendors).***

#### **SEXUAL HARASSMENT**

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature (regardless of whether such conduct is “welcome”), when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of 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 unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Some examples of conduct that could give rise to sexual harassment are unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual’s body, sexual prowess, or deficiency; talking about your sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who are gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex.

This is not a complete list.

#### **OTHER FORMS OF PROHIBITED HARASSMENT**

City of Florence policy also prohibits harassment against an individual based on the individual’s race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Such harassment may include verbal, written, or physical conduct that denigrates, makes fun of, or shows hostility towards an individual because of that individual’s protected class or protected activity, and can include:

- Jokes, pictures (including drawings), epithets, or slurs;
- Negative stereotyping;
- Displaying racist symbols anywhere on City of Florence property;
- “Teasing” or mimicking the characteristics of someone with a physical or mental disability;
- Criticizing or making fun of another person’s religious beliefs, or “pushing” your religious beliefs on someone who does not have them;
- Threatening, intimidating, or hostile acts that relate to a protected class or protected activity; or
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the protected status.

This is not a complete list. All employees are expected to exercise common sense and refrain from other similar kinds of conduct.

### **BULLYING**

City of Florence strives to promote a positive, professional work environment free of physical or verbal harassment, “bullying,” or discriminatory conduct of any kind. City of Florence, therefore, prohibits employees from bullying one another or engaging in any conduct that is disrespectful, insubordinate, or that creates a hostile work environment for another employee for any reason. For purposes of this policy, “bullying” refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate and that creates a risk to the health and safety of the employee(s). Examples of bullying include:

1. Verbal Bullying: Slandering, ridiculing, or maligning a person or their family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.
2. Physical Bullying: Pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person’s work area or property.
3. Gesture Bullying: Non-verbal threatening gestures; glances that can convey threatening messages.
4. Exclusion Bullying: Socially or physically excluding or disregarding a person in work-related activities. In some cases, failing to be cooperative and working well with co-workers may be viewed as bullying.
5. Cyber Bullying: Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include transmitting or showing mean-spirited text messages, emails, embarrassing pictures, videos or graphics, rumors sent by email or posted on social networking sites, or creating fake profiles on websites for co-workers, managers or supervisors or elected officials.

This is not a complete list.

### **COMPLAINT PROCEDURE**

Employees, volunteers, or interns who have experienced a sexual assault, any harassment, discrimination, or bullying in violation of this policy, who have witnessed such behavior, or who have credible information about such behavior occurring, are expected and should bring the matter to the attention of Human Resources or the City Manager. Alternatively, employees should communicate with a supervisor or member of management as soon as possible.

Employees are strongly encouraged to document the information or incident in any written or electronic form, or with a voice mail message (or phone call). An employee who experiences or witness’s harassment is encouraged, but not required, to tell the harasser that the behavior is offensive and unwanted, and that they want the behavior to stop.

### **INVESTIGATION AND CONFIDENTIALITY**

All complaints and reports will be promptly and impartially investigated and will be kept confidential to the extent possible, consistent with City of Florence’s need to investigate the complaint and address the situation. If conduct in violation of this policy is found to have occurred, City of Florence will take prompt, appropriate corrective action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

Employees who have been subjected to harassment, sexual assault, or discrimination are encouraged to use the City of Florence’s complaint-reporting procedure, described above, to ensure a timely, thorough investigation and handling of the situation. Employees may, however, seek redress from the Oregon Bureau of Labor and Industries (BOLI) pursuant to ORS 659A.820 to 659A.865, or in a court under any other available law, whether criminal or civil. Although the City of Florence cannot provide employees with legal advice, employees should be aware of the statute of limitations applicable to harassment or discrimination claims under ORS 659A.030, 659A.082 or 659A.121 (five years). Further, before an employee can take any legal action against the City of Florence, the

employee must provide written notice of the claim within 180 days of the act or omission the employee claims have caused him/her harm. When an employee can prove harm as a result of unlawful harassment or discrimination in an administrative proceeding or in a court, remedies available to the employee include enforcement of a right, imposition of a penalty, or issuance of an order to the employee's employer (in limited circumstances).

#### **PROTECTION AGAINST RETALIATION**

City of Florence prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, or harassing, discriminatory, or bullying conduct, or has participated in an investigation of such conduct.

Employees who believe they have been retaliated against in violation of this policy should immediately report it to Human Resources or the City Manager. Additionally, employees may report to any supervisor or member of management. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

*See also* the Equal Opportunity Policy, above, and the Reporting Improper and Unlawful Activity Policy, below.

#### **OTHER RESOURCES AVAILABLE TO EMPLOYEES**

The City of Florence provides an Employee Assistance Program (EAP) through Cascade Centers to employees and dependents who are enrolled in City of Florence's medical coverage. For access to confidential help 24 hours a day, seven days a week, call toll-free: 1-800-433-2320, or go online to [www.cascadecenters.com](http://www.cascadecenters.com). The EAP program provides confidential counseling services and educational tools such as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, and others.

The City of Florence cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

#### **OTHER EMPLOYEE RIGHTS**

Nothing in this policy is intended to diminish or discourage an employee who has experienced workplace harassment or discrimination, or sexual assault, from talking about or disclosing their experience.

If an employee who has been aggrieved by workplace harassment, discrimination or sexual assault wants to enter into a settlement, separation, or severance agreement with the City of Florence regarding their experience and/or employment status, the employee should contact Human Resources. The employee's request to enter into such an agreement must be in writing (email or text is acceptable). If the City of Florence and employee reach an agreement, the employee will have seven days to revoke the agreement after signing it. The City of Florence may not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or communicating about their experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightly about the City of Florence or making comments that would lower the City of Florence in rank or reputation).

The City of Florence is committed to creating and maintaining a workplace free of sexual assault, harassment, discrimination, and retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires the City of Florence to inform employees that if they have been aggrieved by workplace harassment, discrimination or sexual assault and want to enter into an agreement with the City of Florence regarding their experience and/or employment status, the employee should contact Human Resources. The employee's request to enter into such an agreement must be in writing (email or text is acceptable). Requests of this nature will be considered on a case-by-case basis; such agreements are not appropriate for every situation. If the City of Florence and employee do reach an agreement, the City of Florence will comply with Oregon law applicable to such agreements. For instance, the City of Florence will not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or

communicating about their experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightly about the City of Florence or making comments that would lower the City of Florence in rank or reputation). If, however, the employee initiates the request for the agreement, nondisclosure and non-disparagement are terms that may be agreed upon between the employee and the City of Florence. The employee will have seven days to revoke the agreement after signing it.

#### **D. DISABILITY ACCOMMODATION POLICY**

City of Florence is committed to complying fully with the Americans with Disabilities Act (ADA) and Oregon's disability accommodation and anti-discrimination laws. We are also committed to ensuring equal opportunity in employment for qualified persons with disabilities.

##### **ACCOMMODATIONS**

City of Florence will make reasonable efforts to accommodate a qualified applicant or employee with a known disability, unless such accommodation creates an undue hardship on the operations of City of Florence.

##### *REQUESTING AN ACCOMMODATION*

A reasonable accommodation is any change or adjustment to a job or work environment that does not cause an undue hardship on the department or unit (or, in some cases, City of Florence) and that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include providing or modifying equipment or devices, job restructuring, allowing part-time or modified work schedules, reassigning an individual, adjusting or modifying examinations or training materials provided by the City of Florence, providing readers and interpreters, or making the workplace readily accessible to and usable by people with disabilities.

Employees should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to perform the essential duties of a position. All requests for accommodation should be made with Human Resources and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases, an employee will need to secure medical verification of their need for a reasonable accommodation. Both the City of Florence and employee must monitor the employee's accommodation situation and make adjustments as needed.

##### **PREGNANCY ACCOMMODATION**

Employees who are concerned that their pregnancy, childbirth, or a related medical condition (including lactation) will impact their ability to work should contact Human Resources to discuss their options for continuing to work and, if necessary, leave of absence options. The City of Florence will provide one or more reasonable accommodations pursuant to this policy for employees with known limitations unless such accommodations impose an undue hardship on the City of Florence's operations.

Although this policy refers to "employees," the City of Florence will apply this policy equally to an applicant with known limitations caused by pregnancy, childbirth, or a related medical condition.

##### *REQUESTING A PREGNANCY-RELATED ACCOMMODATION*

Employees who are concerned that their pregnancy, childbirth, or a related medical condition will limit their ability to perform their duties should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to work. All requests for accommodation should be made with Human Resources and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases,

information from the employee's doctor may be needed to assist the City of Florence and the employee find an effective accommodation, or to verify the employee's need for an accommodation. Both the City of Florence and employee must monitor the employee's accommodation situation and make adjustments as needed.

*LEAVE OF ABSENCE OPTIONS FOR PREGNANT EMPLOYEES*

Employees who are pregnant or experiencing pregnancy-related medical conditions should also be aware of their leave of absence options under Oregon's sick leave law, OFLA, and FMLA. See Sick Leave policies on page 84; OFLA and FMLA policies on page 92 of the 2014 Employee Handbook, or speak with Human Resources.

**NO DISCRIMINATION, NO RETALIATION**

The City of Florence prohibits discrimination and retaliation against any employee under this policy that: (1) asked for information about or requested accommodations; (2) used accommodations provided by the City of Florence; or (3) needed an accommodation.

Employees who ask about, request, or use accommodations under this policy and applicable Oregon law have the right to refuse an accommodation that is unnecessary for the employee to perform the essential functions of the job or when the employee does not have a known limitation. Under Oregon law, an employer cannot require an employee to use Sick Leave, the Oregon Family Leave Act (OFLA), or the Family Medical Leave Act (FMLA) if a reasonable accommodation can be made that does not impose an undue hardship on the operations of the City of Florence. Also, no employee will be denied employment opportunities if the denial is based on the need of the City of Florence to make reasonable accommodations under this policy.

**E. REPORTING IMPROPER OR UNLAWFUL CONDUCT — NO RETALIATION**

Employees may report reasonable concerns about the City of Florence's compliance with any law, regulation, or policy, using one of the methods identified in this policy. The City of Florence will not retaliate against employees who disclose information that the employee reasonably believes is evidence of:

- A violation of any federal, Oregon, or local law, rules, or regulations by the City of Florence;
- Mismanagement, gross waste of funds, abuse of authority;
- A substantial and specific danger to public health and safety resulting from actions of the City of Florence; or
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, the City of Florence will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county, or metropolitan service district.

**Employee Reporting Options**

Employees who wish to report improper or unlawful conduct should first talk to their supervisor. If the employee is not comfortable speaking with their supervisor, or they are not satisfied with their supervisor's response, the employee is encouraged to speak with Human Resources or the City Manager. Supervisors and managers are required to inform Human Resources or the City Manager about reports of improper or unlawful conduct they receive from employees.

Reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation.

If the City of Florence were to prohibit, discipline, or threaten to discipline an employee for engaging in an activity described above, the employee may file a complaint with the Oregon Bureau of Labor and Industries or bring a civil action in court to secure all remedies provided for under Oregon law.

### **ADDITIONAL PROTECTION FOR REPORTING EMPLOYEES**

Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of the City of Florence's violation of law will have an "affirmative defense" to any civil or criminal charges related to the disclosure. For this defense to apply, the employee's disclosure must relate to the conduct of their coworker or supervisor acting within the course and scope of the employee's employment. The disclosure must have been made to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager with the City of Florence; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

### **Policy Against Retaliation**

The City of Florence will not retaliate against employees who make reports or disclosures of information of the type described above when the employee reasonably believes they are disclosing information about conduct that is improper or unlawful, and who lawfully accessed information related to the violation (including information that is exempt from disclosure as provided in Oregon law or by City of Florence policy) .

In addition, the City of Florence prohibits retaliation against an employee for participating in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no City of Florence employee will be adversely affected because the employee refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal, or other applicable laws and regulations. The City of Florence may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect an employee from the consequences of their own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under this policy if the City of Florence determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

### **REST BREAKS FOR EXPRESSION OF BREAST MILK**

The City of Florence will provide reasonable rest periods to accommodate an employee who needs to express milk for her child eighteen (18) months of age or younger. If possible, the employee will take the rest periods to express milk at the same time as the rest breaks or meal periods that are otherwise provided to the employee. If not possible, or if the employee is exempt from overtime laws, the employee is entitled to take a reasonable period each time the employee has a need to express milk.

The City of Florence will treat the rest breaks used by the employee for expressing milk as paid rest breaks up to the amount of time the City of Florence is required to provide as paid rest breaks and/or meal periods under applicable personnel rules or collective bargaining agreements. Additional time needed beyond the paid rest breaks and/or meal periods may be taken as unpaid time.

If an employee takes unpaid rest breaks, the City of Florence may, at the discretion of the employee's supervisor, allow the employee to work before or after her normal shift to make up the amount of time used during the unpaid rest periods. The City of Florence will allow, but not require, an employee to substitute paid leave time for unpaid rest periods taken in accordance with this policy.

The City of Florence will make a reasonable effort to provide the employee with a private location within close proximity to the employee's work area to express milk. For purposes of this policy, "close proximity" means within walking distance from the employee's work area that does not appreciably shorten the rest or meal period. A "private location" is a place,

other than a public restroom or toilet stall, in close proximity to the employee's work area for the employee to express milk concealed from view and without intrusion by other employees or the public.

If a private location is not within close proximity to the employee's work area, the City of Florence will identify a private location the employee can travel to. The travel time to and from the private location will not be counted as a part of the employee's break period.

**NOTICE**

An employee who intends to express milk during work hours must give their supervisor or Human Resources reasonable oral or written notice of her intention to do so in order to allow the City of Florence time to make any preparations necessary for compliance with this rule.

**STORAGE**

Employees are responsible for storing expressed milk. Employees may bring a cooler or other insulated food container to work for storing the expressed milk. If an office provides access to refrigeration for personal use, an employee who expresses milk during work hours may use the available refrigeration.

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I hereby acknowledge that I have received and read the above EEO related policies and the policy for Rest Breaks for the Expression of Breast Milk. I understand that these policies as stated above are the official City policies effective January 1, 2020 and that these policies supersede and replace previous policies on the same or similar subjects. If I have questions, I will speak with Human Resources or my immediate supervisor or manager.



12/19/2019

**HUMAN RESOURCES**

**DATE**



12/19/2019

**CITY MANAGER**

**DATE**