

ORDINANCE NO. 22-07

AN ORDINANCE AMENDING CHAPTER 78 OF THE CODE OF ORDINANCES OF THE CITY OF PORT ARTHUR BY ADDING ARTICLE IV: AN ADDENDUM AS IT PERTAINS TO THE PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION'S GRIEVANCE PROCESS FOR COMPLAINTS OF HARASSMENT AND APPEALS OF DISCIPLINE

WHEREAS, Chapter 78 of the Code of Ordinances of the City of Port Arthur provides for a uniform guide for the consistent application of personnel rules, regulations and benefits established for city employees by the City Council; and

WHEREAS, the Port Arthur Economic Development Corporation (PAEDC) is a nonprofit corporation established by the City whose purpose is to support economic development for the City; and

WHEREAS, Article XIII, Section 13.04 of the PAEDC Bylaws authorizes the corporation to employ full or part time employees. The PAEDC's Board of Directors has determined that it is necessary to establish an employee grievance process for complaints of harassment and appeals of discipline attached hereto as Exhibit "A"; and

WHEREAS, in order to formalize the adoption of the PAEDC employee grievance process, the City Council deems it necessary to amend Chapter 78 of the Code of Ordinances by adding Article IV as an addendum to the City's Personnel Policy.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That Chapter 78 of the Code of Ordinances be amended to add Article IV: An addendum as it pertains to the Port Arthur Economic Development Corporation's Employee Grievance Process for Complaints of Harassment and Appeals of Discipline as delineated in Exhibit "A".

Section 3. That this being an Ordinance amending an Ordinance which does not carry a penalty and does not require publication shall take effect immediately from and after its passage.

Section 4. That this Ordinance shall not become effective without prior approval by the PAEDC Board of Directors.

Section 5. That a copy of the caption of this Ordinance be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 1st day of Feb., A.D., 2022, at

a Council Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES: Mayor: Bartie; Mayor Pro Tem Frank; ,

Councilmembers: Helmes, Kineau and Moser. ,

NOES: None. .


Thurman Bill Bartie, Mayor

ATTEST:



Sherri Bellard, City Secretary

APPROVED AS TO FORM:

(see memo)

Val Tizeno, City Attorney

APPROVED FOR ADMINISTRATION:



Ronald Burton, City Manager

Exhibit "A"

City of Port Arthur
Economic Development Corporation
(PAEDC)

**Grievance Process
For
Complaints of Harassment
And
Appeals of Discipline**

(Addendum to City of Port Arthur
Personnel Policy)

Approved:
February 2022

Introduction

The City of Port Arthur Employee Personnel Policy Manual governs the workplace and employees of the City of Port Arthur. It has been codified in Chapter 78 of the City of Port Arthur Code of Ordinances. By virtue of Ordinance No.____, the Port Arthur Economic Development Corporation ("PAEDC") has adopted the provisions of the City of Port Arthur Employee Personnel Policy Manual and has made these policies and procedures applicable to the employees of the "PAEDC," as it pertains to terms, conditions, and benefits of employment.

The attached "Port Arthur Economic Development Corporation's Grievance Process for Complaints of Harassment and Appeals of Discipline" was adopted by the PAEDC and exclusively applies to PAEDC employees with respect to disciplinary action, reports of harassment and appeals.

All references in the Policy Manual to the "City Manager" or "Department Head" shall instead be handled by the PAEDC CEO for PAEDC employees. This substitution of terms regarding the application of the Personnel Policy shall cover all such references unless an alternate interpretation is specifically required for administrative purposes.

Policy Against Harassment

The PAEDC is committed to promoting an environment that is free of harassment and requires all employees to complete a designated training course on harassment. The PAEDC recognizes that harassment based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability or genetic information, is a violation of federal and state laws. The PAEDC maintains a strict policy that any harassment, whether sexual, racial, ethnic, based on age, disability, genetic information or religious in nature, is not acceptable and will not be tolerated. The PAEDC assures all employees who make complaints of harassment or provide information related to such complaints that their allegations will remain confidential to the extent possible, and they will be protected against retaliation. Harassment is unwelcome conduct that is based on race, color, religion, sex, national origin, age, disability or genetic information. The PAEDC prohibits harassment where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Employees who engage in such conduct while on duty or on PAEDC premises will be subject to immediate discipline. While on duty or on PAEDC premises, employees shall not use obscene or abusive language or offensive gestures in

their communication with coworkers or members of the public. Employees shall not threaten or intimidate coworkers or members of the public by oral, written, electronic, or other means of communication. Employees shall not physically endanger, intimidate, or injure coworkers or members of the public.

Additionally, employees should be mindful of what they say and do, as sexual, racial, ethnic, or religious harassment may be present if an individual's behavior is considered offensive by another individual or if it has an intimidating affect upon another individual.

Each supervisor is responsible for keeping their workplace free of sexual, racial, ethnic and religious harassment or harassment directed towards anyone's disability, genetic information or age status. This duty includes discussing and enforcing this policy and procedure with all employees.

It is the responsibility of all employees to immediately report any violation or breach of the harassment policies and to cooperate in any resulting investigation. Notification to the PAEDC is essential to assist management in resolving potential issues. Employees will not be penalized in any way for reporting, in good faith, concerns related to harassment. Retaliation for harassment complaints is strictly prohibited and is grounds for disciplinary action up to and including termination. Employees are prohibited from hindering an internal investigation or an internal complaint related to possible harassment.

A. Sexual Harassment

Sexual harassment generally includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a harassing nature. Such conduct violates Title VII of the CIVIL RIGHTS ACT of 1964, and specifically includes but is not limited to the following:

1. Making submission to such sexual conduct a term or condition of an individual's employment;
2. Using submission to or rejection of such conduct the basis for employment decisions affecting an individual (i.e., denial of a pay increase, promotion, transfer, leave of absence, imposing disciplinary action, promising to withhold disciplinary action, etc.);
3. Making sexual advances, requests for sexual favors, and other verbal or physical conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment;
4. Offering employment benefits in exchange for sexual favors;
5. Making or threatening reprisals after a negative response to sexual advances;
6. Leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons, or posters;
7. Using sexually offensive jokes, materials, and tricks;
8. Using verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual;
9. Suggestive or obscene letter, notes, e-mails or invitations;
10. Using physical conduct - touching (pinching, hugging, patting, or repeated brushing against another individual's body), assault, impeding or blocking

- movement;
11. Gifts of a sexual nature given at the workplace or at anniversary parties, retirement parties, and other work-related functions, whether on PAEDC premises or at conferences, workshops, or traveling on PAEDC business; or
 12. Threatening retaliation for reporting sexual harassment.

B. Complaints

The PAEDC strictly prohibits all harassment and requires all employees to immediately report incidents of harassment, whether the employee is victim or a witness to such behavior. Employees who feel that another employee is harassing them *must* immediately notify the PAEDC Executive Director or the PAEDC Board Chairman if the Executive Director is the subject of the complaint. Employees who observe incidents of harassment against others must report such conduct as directed above. Incidents of harassment should be reported within 48 hours so the PAEDC can undertake a prompt investigation.

All complaints of discrimination or harassment will be promptly and thoroughly investigated, and violations of this policy will be treated as serious disciplinary infractions. All complaints of sexual harassment will be confidential and only those persons necessary for the investigation and resolution of the complaint will be given information concerning it.

1. The claim should be presented to the PAEDC Executive Director or the PAEDC Board Chairman if the Executive Director is the subject of the complaint. The claim will be promptly reviewed, investigated and the complaining party will be advised of the disposition. If the complaint is against the Executive Director, the claim should be presented to the Chair of the EDC Board. The Chair of the EDC Board will then schedule a meeting with the Board of Directors to determine how to proceed with investigating the complaint.
2. If the complaining party is not satisfied with the disposition of the claim, an immediate appeal may be made by submitting a written complaint directly to the PAEDC Board of Directors.
3. A substantiated report of harassment may result in disciplinary action up to and including immediate dismissal.
4. No employee will be subject to any retaliation or reprisal for the report of harassment made in good faith.
5. Any employee who knowingly or maliciously makes a false harassment complaint or report will be subject to appropriate disciplinary action..

Appeals of Terminations of Employment or Demotions.

A regular employee, who has completed an introductory period, may appeal the termination of his or her employment or a demotion first to the Executive Director, and if such appeal to the Executive Director does not resolve the issue to the satisfaction of the employee, or if the Executive Director participated in the decision to terminate the employee from employment or demote him or her, the employee may appeal his or her

termination from employment or demotion directly to the Board of Directors in accordance with the following requirements:

A. Appeals to the Executive Director must be filed within five (5) business days of the date that the employee receives the notice of termination of employment or demotion. If the fifth day occurs on a non-business day, the appeal may be filed on the next business day.

B. All appeals to the Executive Director shall be submitted in writing and shall fully set forth all issues that the employee desires to be considered in the appeal and the relief that is requested by the employee. Materials submitted on appeal may include affidavits, evidence and written arguments. The Executive Director shall render a determination on the appeal no later than 7 days following the submission of the appeal by the employee.

C. Appeals to the Board of Directors must be filed with the Chair of the Board within five (5) business days of the date the employee receives the notice of the termination of employment or demotion if the Executive Director participated in the decision, or within five (5) business days of the date the employee receives the results of an appeal from the Executive Director filed by the employee in accordance with this policy. If the fifth day occurs on a non-business day, the appeal may be filed on the next business day.

D. All appeals to the Board of Directors shall be submitted in writing and shall fully set forth all issues that the employee desires to be considered in the appeal and the relief that is requested by the employee from the Board of Directors. The Board shall consider the appeal at a regular Board meeting or may consider the appeal at a special meeting of the Board with written notice of the date and time of the meeting provided to the employee. The appeal will be considered in the executive session of the meeting unless the employee elects in writing to have the matter heard in open session. Because the appeal is not a judicial proceeding, rules of procedure and evidence shall not apply. The Board shall render a written determination on the appeal no later than 14 days following the hearing of the appeal by the Board.

E. Once all appeal procedures have been exhausted, or no further appeals are timely pursued under this policy, the appeal shall be considered concluded. The employee shall have no further right to appeal under these policies and procedures.