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CH5 - EMPLOYMENT SECURITY

CH5 5 .1 - Nondiscrimination Policy

Every contract to which the Town is a party, including franchises granted to public utilities, shall contain a provision requiring the contractor and his or her subcontractors not to discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to his or her hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of his or her race, religion, color, sex, handicap, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

Further Information

'82 Code, Ord. No. 9-1982

Date Passed: 12/22/1982

CH5 5 .2 - Personnel Sexual Harassment Policy and Procedures

It is the policy of the Town of Lapel to maintain a work environment free of inappropriate and disrespectful conduct and communication of a sexual nature. Accordingly, there is hereby declared to be the following anti-sexual harassment policy and procedures:

- a. No official, elected or appointed, department head, supervisor, or other employee of the Town of Lapel shall engage in behavior which would constitute sexual harassment. Further, all department directors, managers, and supervisors are responsible for assuring that all employees, agents and contractors have knowledge of and understand that sexual harassment is against the law and shall not be tolerated.
- b. Any employee who feels that he or she has been a victim of sexual harassment shall be entitled to file a complaint alleging the same pursuant to the procedures detailed herein.

c. Any employee who violates this law will be subject to disciplinary action pursuant to the progressive discipline policies hereinafter stated.

d. Sexual harassment includes, but if not limited to:

1. Unsolicited and unwelcome verbal comments or jokes and physical gestures or actions or sexual nature toward another employee (for example: touching, patting, pinching, indecent exposure, or profane jokes);
2. Unsolicited and unwelcome demands or requests for sexual favors or social or sexual encounters;
3. The explicit or implicit promise of preferential treatment with regards to an individual's employment in exchange for sexual favors or sexual activity; and
4. The use of an employee's or applicant's submission to or rejection of such conduct as the basis of an employment decision, e.g. hiring, firing, promotion, demotion, compensation, benefits, or working conditions;

PERSONNEL COMPLAINT PROCEDURE

It is incumbent upon the Town of Lapel to provide a process by which an employee may seek assistance with a work-related complaint of sexual harassment. A written statement must be prepared explaining what happened. The following is the proper complaint procedure:

- a. Discuss written complaint with the immediate supervisor, or;
- b. Discuss the written complaint with a member or members of the Town Board; or discuss the written complaint with the town police chief; and/or discuss the written complaint with the clerk/treasurer.
- c. Recommendations will be made by the Town Board to resolve the problem within a reasonable period of time. A final decision will be made by the Town Board and given to the employee in writing within five (5) working days of the decision.

DISCIPLINARY PROCEDURES FOR SEXUAL HARASSMENT COMPLAINT

In public agencies it is imperative for employees who serve the public to follow rules and regulations on work performance and personal conduct, to work well with their fellow employees and to do all the things that contribute to their performance and reaching the goals of the Town of Lapel. So long as employee behavior is positive and supportive of organizational goals, all is well. But when employee behavior departs from the norm or the standards set by the Town of Lapel, the need for discipline action arises. Corrective discipline is based on the belief that discipline should serve to correct unsatisfactory behavior. The basic steps that reflect this principle are a written reprimand, suspension without pay, demotion, and termination. However, there are exceptions to these basic steps and they depend on the nature or severity of the infractions.

All disciplinary actions must be in writing. The original must be submitted to the immediate supervisor and a copy of the employee. A suspension, demotion or termination could not occur without the approval of the

Town Board.

An employee who initiates any complaint under this procedure shall not be subject to any firing, termination, demotion, decrease in compensation, decrease in benefits, change in working conditions, or any retribution for the submission of such complaint or written statements.

(Resolution No. 5-1994, passed 5/17/1994)(Resolution No. 10-1996, passed 8/27/96)

Further Information

Resolution No. 5-1994, passed 5/17/1994, Resolution No. 10-1996, passed 8/27/96

Date Passed: 5/17/1994

Date Amended: 8/27/1996

CH5 5 .3 - Media Relations Policy

It is the responsibility of every Lapel town employee to help insure that accurate and appropriate information is presented to the media. Therefore, it is requested that contact with the media be approved with the Town Council before any statement is issued. This policy and resolution is solely for the purpose of making certain that there remains accurate and appropriate information conveyed to the media.

Further Information

Resolution No. 2-1994, passed 2/15/1994

Date Passed: 2/15/1994

CH5 5 .4 - Substance Abuse Policy

PRE-EMPLOYMENT SUBSTANCE SCREENING

All applicants for full and part-time positions with the Town of Lapel are required to submit to a medical examination prior to their appointment upon the request of the Town. As part of the medical examination, prospective employees will be screened for a range of chemical substances. The chemical substance shall include but not be limited to the following:

- a. Amphetamine/Methamphetamine (e.g. Speed)
- b. Benzodiazepines (e.g. Valium, Librium, Dalmane, Ativan)
- c. Barbiturates (e.g. Amorbarbital, Butabarbital, Pentobarbital, Phenobarbital)
- d. Cocaine
- e. Methadone
- f. Methaqualone (e.g. Quaalude)

- g. Opiates (e.g. Codeine, Heroin, Morphine)
- h. Phencyclidine (PCP)
- i. THC (Marijuana and other cannabanoids)
- j. Alcohol

All of the above-listed controlled substances are illegal under state and federal law.

At the time of the medical examination, applicants for full and part time employment will be told of the substance or controlled substance and alcohol screening and will be required to sign a consent form. Applicants who refuse to consent to substance screening or who attempt to tamper with the screening samples will not be eligible for employment with the Town of Lapel.

An applicant whose initial substance screen shows a positive result will have the result confirmed by additional studies. If in the second screen the same sample shows a negative result, the individual will not be disqualified from employment with the Town. If the second test confirms a positive test result, the applicant will be disqualified from consideration for employment. The applicant will be notified of the positive results from the second screening and be given the opportunity, at the applicants expense, to have a third screen conducted on the same sample within 72 hours after the applicant is notified of the results of the second screen. If this final screen again confirms a positive test result, the prospective employee will be disqualified from employment.

All screens will be made on the same sample by a firm selected by the Town of Lapel. An applicant whose test shows positive results will have 24 hours after receiving such notification of positive test results to provide verification of a current valid prescription in the applicants name.

II.

EMPLOYEE RESPONSIBILITIES

Employees who have a substance abuse problem are expected to obtain treatment and counseling through the numerous treatment agencies available.

Given the importance of maintaining the work environment without the presence of alcohol and drugs and the opportunities that employees have to address substance dependencies through treatment and counseling programs offered through the various treatment facilities, substance abuse which adversely affects job performance will not be tolerated. This applies to on duty employees as well as employees who are on call. Employees whose on or off duty use of substances impacts job performance will be appropriately disciplined including but not limited to the sanction of termination from employment.

Employee responsibilities include but are not necessarily limited to the following:

- a. An employee must not report to work or be subject to duty while his or her ability to perform job duties is impaired due to alcohol or illegal drug use, on or off duty;

- b. Employee shall not possess or use or have the odor of alcohol or illegal drugs on his or her breath during working hours, on breaks, during meal periods, while on town property in an official capacity or while operating any town property in an official capacity or while operating any town vehicle or machinery;
- c. An employee shall not directly or through a third party sell or provide illegal drugs or alcohol to any person or to any other employee while either or both employees are on duty, or on call;
- d. An employee shall submit immediately to reasonable request for alcohol or drug analysis when requested by a superior, supervisor, department head, board member, or law enforcement officer;
- e. An employee shall notify his or her superior before beginning work, when taking any medication or drugs, prescriptions, or non-prescription which may interfere with the safe and effective performance of duties or operation of town equipment, and provide within 24 hours of request a current valid prescription for any drug medication identified when a drug screen/analysis is positive. This prescription must be in the employees name;

III

SUBSTANCE SCREENING OF CURRENT EMPLOYEES

Town employees are subject to substance screening if there is a reasonable suspicion that while on duty they are impaired. Impairment is defined as being unable to perform their duties safely and completely due to the use of alcohol and/or controlled substances. Reasonable suspicion is a belief based on objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employees ability to perform the function of the job is impaired or so the employees ability to perform this job safely is reduced. Observations which constitute a factual basis for determining reasonable suspicion may include but are not limited to the following:

- a. Odor of alcoholic beverage upon the employees breath
- b. Erratic behavior
- c. Violent mood swings
- d. Excessive absenteeism
- e. Repeated tardiness
- f. Inability to walk in straight line
- g. Open and obvious possession of alcohol and/or illegal controlled substances
- h. Slurred speech
- i. An accident which is caused by the apparent action or inaction of the employee under circumstances giving rise to a reasonable interference that the accident was caused or was a result of the use of alcohol and/or illegal controlled substances.

A superior, department head, board member, or law enforcement officer, who has reasonable suspicion that an employee is impaired by alcohol or other illegal controlled substances on the job will immediately arrange for a substance screening at the expense of the Town of Lapel. If such a screening is required after normal business hours, the Town of Lapel will make direct contact with the medical facility that has been designated to perform such screening for the Town. Employees who are scheduled for the substance screening must be transported to the designated medical facility by the Town of Lapel. The testing for substances will be made on a sample

provided at the clinic. The procedures for such sample collection and testing will be made based upon the medically accepted procedure developed by the chosen medical facility and in order to insure results of tests, no less than a highly sensitive methodology shall be utilized. Such testing shall be based on medically acceptable testing procedures and shall include, but not necessarily be limited, primarily to test utilizing enzyme amino acid techniques followed by more specific confirmation testing as gas chromatography (GC) or gas chromatography/mass spectrophotometry (GCMS) or other highly sophisticated methods which are acceptable by the medical facility and/or the courts. After the sample is given as outlined above, the Town of Lapel will see to it that the employee is safely transported home. In addition for alcohol testing and testing the facilities at the Lapel Police Department, Madison County Detention Center and Indiana State Police Post, and the use of the intoxilizer 5000 shall be sufficient determination for blood alcohol content provided statutorily approved procedures are followed.

At the testing as outlined above, if the sample provides a negative result, the conclusion will be that the sample contains no alcohol and/or controlled substance. However, if the first screen shows a positive result, and a second screen using a more sophisticated testing technique shows a positive result, then the employee will be assumed to be under the influence of alcohol and/or illegal controlled substances. An employee whose test shows a positive result will have 24 hours after receiving notification of the positive result to provide a bona fide and verified current valid prescription which may have caused the positive result. The prescription must be in the employees name.

An employee who does not present himself or herself for testing within one (1) hour after testing is requested as outlined above shall have been deemed to have submitted a positive test.

The discipline for being under the influence of alcohol and/or non-prescribed controlled substances will be the basis for the appropriate employee sanctions including the sanction of termination. The determination will be made based on the basis of the employees prior work-related history, previous disciplinary actions, and the prior identification of substance abuse problems. An employee who receives a positive result in substance abuse screening will receive a minimum three (3) days suspension without pay. In addition to the minimum three (3) day suspension, the employee will not be permitted to return to work until the employee obtains, at employees expense, a negative test result from a recognized testing facility. The employee will not be compensated for the period of suspension necessary to obtain the above-described negative test result.

Employees who refuse to submit to the substance screening when reasonable suspicion or substance abuse has been identified will be disciplined as outlined above.

IV

CONSEQUENCE OF SALE, DISTRIBUTION, OR USE OF ILLEGAL SUBSTANCES

The sale, distribution , and/or use of illegal substances by an employee, while on duty or during lunch and other breaks or at any time while he or she is on the towns work site or on the towns working time, constitutes cause for dismissal. Appropriate law enforcement agencies will be notified of any such sale, distribution, and/or use of illegal substance by employees.

V

USE OF MEDICATION PRESCRIPTION DRUGS

All employees who are using prescription or non-prescription drugs which may in any way impact their job performance must notify their superior. That superior, town board member, or town police officer may require a doctors statement if the employee indicates that there is a need to use the prescription drug on extended period of time.

VI

CONFIDENTIALLY

The confidentiality of laboratory reports and test results shall appear in an employees confidential file. Reports or test results may be disclosed to the Town Board of Lapel on a strictly need-to-know basis. Disclosures without employee consent may also occur when (1) the information is compelled by law or by judicial administrative process, (2) the information has been placed at issue and there is a formal dispute between the employer and employee, (3) the information is to be used in administering any employee benefit plan, (4) the information is needed by medical personnel.

VII

SEVERABILITY

The provisions of the policy are severable and if any of its resolutions shall be held unconstitutional or otherwise invalid by any court with competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

(Resolution 12-1995, passed 10/24/95) Amended 3/18/97(Resolution 1-1998, passed 1/20/98.)

Further Information

Resolution 12-1995, passed 10/24/95) Amended 3/18/97(Resolution 1-1998, passed 1/20/98.

Date Passed: 10/24/1995

Date Amended: 1/20/1998