




CITY OF MILPITAS

Revision	Date
Original	8/4/1998
1	10/07/2021

CITY ADMINISTRATIVE POLICY

Policy No: 2.3.4	WORKPLACE VIOLENCE PREVENTION	Effective Date: 10/7/2021
Revision No: 1	Policy Administrator: Human Resources	Next Review Due: As Needed
Related Policies and Procedures: Replaces SOP 002: violence in the Workplace and Internal Complaint Procedure; Related to Anti-Discrimination Policy and Disciplinary Actions Policy	Approved by: Steve McHarris, City Manager 	Date Approved: 10/7/2021

1. PURPOSE

- 1.1. The purpose of this policy is to establish procedures for reporting and quickly investigating, assessing, addressing and resolving workplace behavior that threatens safety or is disruptive to the workplace. This policy reinforces the City's strong commitment to providing a safe work environment, free of violence and threats of violence, in all the workplaces of the City of Milpitas.

2. POLICY

- 2.1. Violence or threats of violence by or against any City employee, contractor or any other person on City property or while engaged in City business is strictly prohibited and will not be tolerated.
- 2.2. All employees are responsible for conducting themselves in a professional manner, refraining from disruptive behavior, and reporting incidents of workplace violence. Prohibited disruptive behavior or conduct in the workplace, whether between coworkers, employees and domestic partners or family members; or employees and non-employees, includes but is not limited to:
- A. Verbal conduct – Offensive comments made by employees or non-employees intended to intimidate, frighten, coerce, or induce duress, or a comment(s) that communicate a threat of imminent bodily harm.
 - a. Such prohibited conduct includes behavior in-person, by telephone, through electronic media, or any other form of communication.
 - B. Physical conduct – Uninvited physical contact, consisting of such things as threatening gestures, hitting or punching, or throwing objects.
 - C. Property damage – Willful damage to or destruction of City or personal property of another.
- 2.3. The City shall respond promptly and effectively to address reported violent disruptive behavior. The City shall develop programs to prevent disruptive behavior from occurring and provide resources to individuals affected by disruptive behavior.
- 2.4. Employees found to have engaged in disruptive behavior may be subject to corrective or disciplinary action up to and including termination for misconduct or for performance



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- deficiencies pursuant to separate applicable City policies or collective bargaining unit agreement.
- 2.5. Incidents or complaints that involve allegations of sexual harassment or discrimination should also be reported and investigated under the applicable City policy.
- 2.6. The City is committed to providing opportunities for employees to be trained in the risk factors associated with workplace violence, methods of preventing situations that could lead to violence, and the proper handling of emergency situations in order to minimize the occurrences of violent incidents in the workplace.
- 2.7. **PROHIBITED WEAPONS** – This provision is not applicable to peace officers (as designated by Section 830-832.16 of the California Penal Code) or employees and contractors authorized by law or the Chief of Police to carry weapons, or employees who carry knives and related implements that are used as tools in the regular course of City business with awareness and approval of their appointing authority.
- A. With the exceptions noted elsewhere in this policy, no person shall have in their possession, while on any property owned or leased by the City, any City worksite (including outdoor worksites), or in a City vehicle, any of the following items: (This section also pertains to individuals who have permits to carry a Concealed Weapon).
- a. Firearm, assault weapon or other dangerous weapon (as defined in Section 16520, 12020, 12276, of the California Penal Code), including, but not limited to, pistols, handguns, rifles, shotguns, knives, swords, or martial arts weapons (such as nunchaku and tonfas);
- b. Explosive or destructive devices (as defined in Section 12000 of the California Health and Safety Code) including, but is not limited to, ammunition, fireworks, firecrackers, explosive or incendiary devices or materials;
- c. Chemical agents, such as mace and pepper spray;
- d. Taser or stun gun (as defined in Section 244.5 of the California Penal Code.)
- B. The City Manager, with the concurrence of the Human Resources Director, the Chief of Police, and the department director may, in writing, authorize employees to carry a weapon for justifiable, documented, and work-related purposes. See Attachment A, *Employee's Application for Exemption to Weapons Ban*.
- a. *Specific situations may be reviewed on a case-by-case basis taking into consideration City operations including ensuring:*
- i. All employees and the public conducting business with the City of Milpitas be free from the threat of violence either by gesture, verbal threat, implied threat, or physical act while in the course of duties, or obtaining services from the City;
- ii. Requests do not impede the regular and necessary conduct of City business; and
- iii. Requests do not impede an individual's rights so long as the primary intent described herein is followed.
- 2.8. **ROLES AND RESPONSIBILITIES**
- A. Employees shall:
- a. conduct themselves with civility and respect for the rights and welfare of others in the workplace, while conducting City business, and on City properties.



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- b. report disruptive behavior that they experienced, have knowledge of, or witnessed.
 - B. Supervisors, Managers and Department Heads shall:
 - a. consult with Human Resources and/or leaders in their chain of command when receiving reports of disruptive behavior.
 - b. ensure that employees receive the recommended training in workplace violence prevention so that the employee is fully informed of the content of this policy. See Attachment C, *Acknowledgement of Review by Employee and Supervisor*, which shall be forwarded to HR for inclusion in the personnel file.
 - c. address disruptive behavior including implementing appropriate corrective or disciplinary action in accordance with applicable procedure or collective bargaining agreement.
 - C. Human Resources shall:
 - a. provide all existing employees with a copy of this policy upon adoption and shall provide all new employees with a copy of this policy during New Employee Orientation.
 - b. assist departments with assessing and responding to potential threats of disruptive behavior.
- 2.9. TYPES OF PROHIBITED BEHAVIOR: The following are examples of types of inappropriate behavior. This list is not intended to be an exhaustive list.
- A. Unnecessary shouting, using profanity, yelling or verbally challenging another person to physical combat or fight;
 - B. Physical combat or fighting, including striking, punching, slapping, kicking, pushing, biting, hair pulling or any other way of physically assaulting another person;
 - C. Grabbing, pinching or touching another person in an unwanted way whether sexually or otherwise;
 - D. Engaging in dangerous and/or threatening horseplay;
 - E. Possession, use, or threat of use of a gun, knife or other weapon of any kind on City property, including parking lots, or exterior premises, in City vehicles, or while engaged in activities for the City in other locations. This provision does not apply to public safety or Public Works personnel whose profession of such items is a requirement of the job;
 - F. Threatening harm or harming another person, or any other action or conduct that implies the threat of bodily harm.

3. DEFINITIONS

- 3.1. California Occupational Safety and Health Administration ("CalOSHA") identifies workplace violence by four main categories:
- A. Criminal Intent (Type 1) – The perpetrator has no legitimate relationship to the City or its employees and is usually committing a crime in conjunction with the violence. These crimes can include robbery, shoplifting, and trespassing.
 - B. Customer/Client (Type 2) – The perpetrator has a legitimate relationship to the City and becomes violent while being served by the City. This category includes customers, clients.
 - C. Worker-on-Worker (Type 3) – The perpetrator usually is an employee or past employee of the City who attacks or threatens another employee(s) or past employee(s) in the workplace.



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- D. Personal Relationship (Type 4) – The perpetrator usually does not have a relationship with the City but has a personal relationship with the intended victim. This category includes victims of domestic violence assaulted or threatened while at work.

4. PROCEDURE

- 4.1. Disruptive behavior that is violent or criminal in nature which requires immediate intervention shall be reported to emergency dispatch by calling 9-911 (while using a City land line phone) or 911 if using a cell phone. The primary consideration shall be for employees' safety. No employee shall put him or herself in a situation which will increase the risk of harm.
- 4.2. Disruptive behavior that is not an emergency or urgent in nature shall be reported to the supervisor, manager or department head, who may then use any of the resources listed in this policy to help resolve the issue. See Attachment B, *Workplace Violence/Threat of Violence Reporting Form*.
- 4.3. The City shall protect the identity of the individual(s) reporting disruptive behavior to the extent permitted or required by law or City policy but may need to make disclosures to complete a fair review of the matter. Reporting employees and employees who are subsequently interviewed during the course of the investigation shall do so without fear of reprisal or retaliation by the City.
- 4.4. Any supervisor, manager or department head who receives a complaint of violence or threat of violence by or against an employee, or who observes, or otherwise learns of violence or threats of violence by or against an employee shall complete the *Workplace Violence/Threat of Violence Reporting Form* and submit it to the Human Resources Department immediately. The department head (or his/her designee) shall also respond promptly to workplace safety issues and attempt to ensure the safety of those employees and non-employees in his/her area.
- 4.5. INVESTIGATIVE PROCEDURE:
 - A. After receiving a complaint of disruptive behavior that is non-threatening or non-violent, the supervisor, department head, or other appropriate official shall take appropriate action to investigate and stop disruptive behavior in the workplace. Supervisors and department heads are encouraged to consult with Human Resources prior to administering corrective or disciplinary action.
 - B. After receiving a complaint of disruptive behavior that is threatening or violent, the supervisor, department head, or other official will contact Human Resources via telephone immediately. If harm or threat of harm is immediate, the supervisor, department head or other employee shall call 9-911 to request police assistance.
 - C. All City employees must cooperate fully, and be truthful and forthright, when providing information in response to an investigation. Employees found to have been dishonest or uncooperative during an investigation may be subject to disciplinary action up to and including termination of employment.
 - D. When necessary, individual(s) engaging in disruptive behavior may be suspended, put on investigatory leave, or excluded from City properties, as appropriate. (Refer to the applicable personnel policy or collective bargaining agreement for procedures).



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- E. The department head, or his/her designee, shall notify the complainant(s) and respondent(s), Human Resources Department, and other appropriate persons, regarding the disposition of complaints made pursuant to this policy.
- 4.6. Departments are strongly encouraged to conduct an initial assessment of any potential hazards or risks in their specific work areas and to develop plans for addressing those hazards/risks. Any problem areas shall be brought to the attention of the department head, and if appropriate, with a recommendation for correcting the problem(s).
- 4.7. The Human Resources Department shall, where necessary and appropriate, arrange for counselors to work with victims and observers of incidents of violence on City property.
- 4.8. The City may allow alternative procedures for complaints, investigations and remedial efforts made pursuant to this policy.
- 4.9. Upon adoption, this policy shall be disseminated to all City employees and departments. A copy of this policy shall also be issued to all new employees during New Employee Orientation.



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ATTACHMENT A

EMPLOYEE'S APPLICATION FOR EXEMPTION TO WEAPONS BAN

Name: Click or tap here to enter text.

Employee ID: Click or tap here to enter text.

Department and Division: Click or tap here to enter text.
text.

Bargaining Unit: Click or tap here to enter

Phone Number (work): Click or tap here to enter text.

Home or cell: Click or tap here to enter text.

Reason for exemption: ☐ Personal

☐ Work-Related

Type of weapon(s): Click or tap here to enter text.

Please provide justification, documentation, and work-related purpose associated with this application for exemption to the City of Milpitas Workplace Violence Prevention Policy. Additional pages may be attached.

Click or tap here to enter text.

If applicable, attach current Concealed Weapon Permit.

My signature indicates the following:

- I have read the Workplace Violence Prevention Policy, and understand the following:
- This approval is discretionary, and the City Manager reserves the right to rescind approval at any time.
- If circumstances surrounding the justification as described above change and alter the facts as presented, I will advise my director.
- If applicable, I will maintain a current Concealed Weapons Permit, but if it is not renewed for any reason, I will report that status to my director immediately.

****INCOMPLETE FORMS WILL NOT BE PROCESSED****

Applicant's Signature: Click or tap here to enter text.

Date: Click or tap to enter a date.

Applicant's Printed Name: Click or tap here to enter text.



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☐ Approved ☐ Denied Reason for Denial: [Click or tap here to enter text.](#)

Department Head Signature Print Name Date

☐ Approved ☐ Denied Reason for Denial: [Click or tap here to enter text.](#)

HR Director Signature Print Name Date

☐ Approved ☐ Denied Reason for Denial: [Click or tap here to enter text.](#)

Police Chief Signature Print Name Date

☐ Approved ☐ Denied Reason for Denial: [Click or tap here to enter text.](#)

City Manager Signature Print Name Date

Distribution: 1) Department 2) Human Resources 3) Police Department

Department will provide final signed copy to Applicant



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ATTACHMENT B

Date/Time of Occurrence:		Exact Location of Occurrence:		Tracking No:	
Victim Information:			Perpetrator Information:		
Name:		Sex:		Name:	
Department:				City Employee: Yes No (select one)	
Work Address:			Department (If applicable):		
Work Telephone:			Work Address:		
Nature of Potential Hazard:			Telephone:	Home:	Work:
			Home Address:		
Reporting Party's Name – Optional (if different from victim):					
Name:			Work Telephone:		
Description of the incident (witnesses, weapons, alcohol/drugs, etc.) (Please attach additional pages, if needed.)					
Police Report completed: Yes No (select one)			Type of Incident:		
If yes: Agency _____			<input type="checkbox"/> Physical Violence <input type="checkbox"/> Threat of Violence <input type="checkbox"/> Other _____		
Report No. _____					
Category of Workplace Violence and action(s) taken:					
Type 1	Criminal Intent – The perpetrator has no legitimate relationship to the City or its employees and is usually committing a crime in conjunction with the violence. These crimes can include robbery, shoplifting and trespassing.				
Type 2	Customer/Client – The perpetrator has a legitimate relationship to the City and becomes violent while being served by the City.				
Type 3	Worker-on-Worker – The perpetrator usually is an employee or past employee of the City who attacks or threatens another employee(s) or past employee(s) in the workplace.				
Type 4	Personal Relationship – The perpetrator usually does not have a relationship with the City but has a personal relationship with the intended victim. This category includes victims of domestic violence assaulted or threatened while at work.				
Supervisor's Name (Print or Type Name)				Telephone:	
Supervisor's Signature				Date:	



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EMPLOYEE ACKNOWLEDGMENT OF POLICY RECEIPT

I have received a copy of the City of Milpitas Workplace Violence Prevention Policy. I understand that as a City of Milpitas employee, I am responsible for reading and abiding by this Policy.

Name	Signature	Date
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