

SECTION 3 – EQUAL OPPORTUNITY

Effective 1/21/09
Replaces Policy _____
Dated _____

3.1 Equal Employment Opportunity

The City does not discriminate on the basis of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, familial status, age, or any other protected characteristic as established by local, state or federal law. This policy of Equal Employment Opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment.

The Human Resources Director is the Equal Employment Opportunity Officer for the City and has responsibility for administering and promoting a program of equal opportunity within the City. The Human Resources Director will coordinate the EEO efforts of all supervisory personnel and will make recommendations, where appropriate, to correct any deficiencies found in the City's program.

All employees with questions or concerns about any type of discrimination in the workplace shall bring these issues to the attention of the Human Resources Director. Employees can raise legitimate concerns and make good faith reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including discharge.

3.2 Non-Discrimination and Anti-Harassment

The City is committed to a work environment in which all individuals are treated with respect and dignity. The City prohibits and will not tolerate any form of discrimination or harassment. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunity and prohibits discriminatory practices, including harassment. Therefore, the City expects that all relationships among persons in the workplace will be business-like and free of bias, prejudice and harassment.

A. Definitions of Harassment

1. Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example: i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or iii) such conduct has the purpose or

effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not so subtle behavior and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail and/or the Internet); and other physical, verbal or visual conduct of a sexual nature.

In order to promote the efficient operation of the City's business and to avoid misunderstandings, complaints of favoritism, other problems of supervision, security, and morale, and possible claims of sexual harassment, directors, managers and supervisors are prohibited from dating or pursuing a romantic or sexual relationship with any employees whom they supervise, directly or indirectly. As an employee, you are welcome to discuss with the Human Resources Director the possibility of a transfer when a relationship with a superior or subordinate is wished to be pursued.

2. Harassment other than sexual is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, age, national origin, disability or any other characteristic protected by law and that: i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or iii) otherwise adversely affects an individual's employment opportunities. The same definitions to this type of harassment apply as indicated above regarding sexual harassment.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail and/or the Internet).

B. Application

This policy applies to all applicants and employees and prohibits harassment, discrimination and retaliation whether engaged in by fellow employees or by someone not directly connected to the City (e.g., an outside vendor, consultant or customer). Conduct prohibited by this policy is unacceptable in the workplace

and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

C. Retaliation Is Prohibited

The City prohibits retaliation against any individual who in good faith reports discrimination or harassment or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action up to and including termination of employment. Any violation of this policy must be reported immediately to your supervisor or the Human Resources Director.

D. Complaint Procedure

The City requires the prompt reporting of all incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. **Individuals who believe they have experienced conduct that is contrary to the City policy or who have concerns about such matters must file their complaint with any of the following individuals: their immediate supervisor, the director of their department, the Human Resources Director, the City Attorney, or the City Manager.**

All reported allegations of harassment, discrimination, or retaliation will be investigated promptly and confidentially (to the extent possible). Appropriate corrective action will be taken. Any person found to have unlawfully discriminated against or harassed another employee will be subject to appropriate disciplinary action, up to and including termination. Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay, or termination, as the City believes appropriate under the circumstances. Individuals who have questions or concerns about these policies should talk to the Human Resources Director.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing, discriminatory, or retaliatory conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

If, after a thorough investigation, it is determined that sexual or other harassment has occurred, immediate and appropriate remedial and/or disciplinary action up to and including termination will be taken against the offender(s). Additionally, follow up steps will be taken, if appropriate or required, to ensure that the harassment has in fact stopped.

3.3 Americans With Disabilities Act Policy Statement

- A. The City is committed to complying with all applicable provisions of the Americans With Disabilities Act (“ADA”) and all other applicable laws relating to disabled employees. It is the City’s policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual’s disability, record of disability, or perceived disability so long as the employee can perform the essential functions of the job with or without a reasonable accommodation. Consistent with this policy of nondiscrimination, the City will provide reasonable accommodation to a qualified individual with a disability, as defined by the ADA, who has made the City aware of his or her disability, and requested an accommodation, provided that such accommodation does not constitute an undue hardship on the City.

Employees with disabilities who believe they need reasonable accommodations to perform the essential functions of their jobs must contact the Human Resources Director to submit their accommodation request.

- B. Procedure for Reviewing Accommodation Requests

On receipt of an accommodation request, a member of the Human Resources Department and your supervisor will meet with you to discuss and identify the precise limitations resulting from the disability and the potential accommodation that the City might make to help overcome those limitations.

The City will determine the feasibility of the requested accommodation considering various factors, including, but not limited to the nature and cost of the accommodation, the City’s overall financial resources and organization, and the accommodation’s impact on the operation of the City, including its impact on the ability of other employees to perform their duties and on the City’s ability to conduct business.

The City will inform the employee of its decision on the accommodation request or on how to make the accommodation. If the accommodation request is denied, an employee will be advised of his or her right to appeal the decision by submitting a written statement explaining the reasons for the request. If the request on appeal is denied, that decision is final.

The ADA and other disability protection laws do not require the City to make the best possible accommodation, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs etc.).

An employee or job applicant who has questions regarding this policy or believes that he or she has been discriminated against based on a disability should notify

the Human Resources Director. All such inquiries or complaints will be treated as confidential to the extent permissible by law.

3.4 Immigration Law Compliance

The City is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with the City within the past three years, or if their previous I-9 is no longer retained or valid. The City must keep each I-9 on file for at least three years, or one year after employment ends, whichever is longer.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the Human Resources Director. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.