

ORDINANCE NO. 1073

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STAFFORD, TEXAS; AMENDING THE CITY OF STAFFORD PERSONNEL POLICIES AND PROCEDURES MANUAL AND OTHER CITY POLICIES AND PROCEDURES THAT PROVIDE FOR APPEALS OR PRESENTATIONS TO THE CITY COUNCIL THAT ARE INCONSISTENT WITH THE CITY OF STAFFORD'S HOME RULE CHARTER TO CONFORM WITH THE CHARTER; AMENDING ARTICLE I B EQUAL OPPORTUNITY POLICY; AMENDING THE CITY'S SEXUAL HARRASMENT POLICY; AND PROVIDING FOR SEVERABILITY.

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STAFFORD, TEXAS:**

**Section 1.** That the City Attorney and the Director of Human Resources are instructed to revise all provisions in the Personnel and Procedures Manual and other City policies and procedures that provide for appeals or presentations to the City Council that are inconsistent with the City of Stafford's Home Rule Charter to comply with the Charter.

**Section 2.** That Article I B Equal Opportunity Policy of the City of the City of Stafford is amended so that the listed sections read as follows:

**CITY OF STAFFORD**

**PERSONNEL POLICIES AND PROCEDURES**

Adopted: February 6, 1985  
Revised: May 21, 1986  
Amended: April 7, 1999  
Amended: August 1, 2001  
Revised: December 4, 2002  
Amended: December 17, 2003  
Amended: February 4, 2004  
Amended: October 13, 2004  
Amended: December 19, 2007

Amended: March 3, 2010  
Amended: March 5, 2014  
Amended: November 5, 2014  
Amended: March 2, 2016  
Amended: September 7, 2016

## **I. INTRODUCTION**

### **A. OBJECTIVE**

This manual was written to provide all City employees with a basic understanding of the fundamental elements of the policies necessary for an effective administration of public service and to outline an equitable system to deal with personnel administration in City government. Fundamentally we seek to: outline the City personnel policies, simplify our system of personnel recruitment, selection and advancement which will make City employment attractive and rewarding as a career; offer a fair and equal opportunity for all qualified individuals wishing to work and who are presently working for the City; and finally, provide the basis for an effective understanding and good working relationship among City employees. The attitude and behavior of City employees shall be courteous and show good will in dealing with the public. All policies and procedures shall be subject to and in accordance with State law and whatever City Ordinances are applicable. This manual shall supersede any previously adopted rules. The word "shall" when used herein is meant to be mandatory.

### **B. EQUAL OPPORTUNITY POLICY**

Affirmative action shall be taken to insure equal employment opportunities for all employees and prospective employees engaged in or to be engaged in City service. Discrimination or harassment against any individual in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspect of personnel administration because of political or religious opinions and affiliations, membership or non-membership in employee organizations, or because of race, color, age, disability, veteran status, sex, national origin, marital status, or other non-merit factors is prohibited. Any employee discriminated against or harassed shall report such conduct

to the Human Resource Director or designee; provided, however, if the Human Resource Director or designee is the alleged source of a claim of discrimination or harassment, the aggrieved employee may address such claim directly to the Mayor. Provided further that if the Mayor or any City Councilmember is the alleged source of a claim of discrimination or harassment, the aggrieved employee shall address such claim directly to the Human Resource Director.

**Section 3.** That the Sexual Harassment Policy of the City of Stafford is amended as follows:

### SEXUAL HARASSMENT

1. Policy.  
Federal law protects employees from sexual harassment under Title VII of the Civil Rights Act of 1964, as amended. Specifically, Title VII prohibits employers from discriminating on the basis of race, color, religion, sex, or national origin on matters of hiring, discharge, compensation, classification, recruitment, and terms, conditions, or privileges of employment, and prohibits retaliatory discharge.

It is the policy of the City that all employees should be able to enjoy a work environment free from all forms of discrimination, including sexual harassment. The City prohibits the sexual harassment of any employee by any other employee or non-employee. The City will not tolerate the sexual harassment of any of its employees, and will take immediate steps to stop it when it occurs.

2. Definition.  
Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that are explicitly or implicitly a term or condition of an individual's employment or are the basis for employment decisions. Sexual harassment is also defined as unwelcome sexual conduct that

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

The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men and conduct directed by women toward women.

Examples of sexual harassment include:

- Leering or ogling;
- Whistling or catcalling;
- Pinching or patting;
- Unwelcome hugging;
- Soliciting or pressuring someone to sit on your knee, to hug you, or to be friendly;
- Commenting on the clothing of an individual in a sexual way, for example, "Boy I sure like the way those pants fit";
- Brushing up against someone as you walk past;
- Vulgar or obscene jokes or language;
- Jokes or comments that put women or men down;
- Repeatedly asking someone for a date after you have been turned down;
- Recounting one's sexual exploits for the people in the office;
- Referring to someone in demeaning terms;
- Displaying crude jokes and pictures, including pinups from magazines such as Playgirl and Playboy;
- Revealing parts of your body in violation of common decency;

- Starting and spreading untrue rumors about the sex life of an employee;
- Grabbing or tearing someone's clothing; or
- Physically forcing sexual activity on someone, ranging from assault to rape.

3. Applicability.

This sexual harassment policy applies to all employees of the City in their conduct and relations with other City employees or members of the general public which they serve.

4. Notice.

This policy shall be distributed to all employees of the City. Department Heads and supervisors shall be responsible for ensuring that all employees under their direction are familiar with this policy.

5. Complaints.

Any employee who feels he or she is being subjected to sexual harassment should immediately report such conduct, in writing or orally, as provided in Article I, B above. To whomever the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

- a. employee's name, department, and position title;
- b. the name of the person or persons committing the sexual harassment, including their title(s), if known;
- c. the specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against you as a result of the harassment, or any other threats made against you as a result of the harassment;
- d. witnesses to the harassment; and
- e. whether you have previously reported such harassment and, if so, when and to whom.

6. Reports.  
When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the Human Resource Director or designee, or in the event the sexual harassment complaint is against the Human Resource Director or designee, to the Mayor. In the event the sexual harassment complaint is against a Councilmember or the Mayor a report of the complaint shall be submitted to the Human Resource Director.
7. Investigation.  
A written record of the investigation shall be made, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.
8. Review.  
Based upon the report, the Human Resource Director or designee or Mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of sexual harassment has been made constitutes sexual harassment. In making such determination, the Human Resource Director or designee or Mayor or City Council shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining of sexual harassment. The determination of whether sexual harassment occurred shall be made on a case-by-case basis.

If the Human Resource Director or designee or Mayor or City Council determines that the complaint of sexual harassment is founded, he shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with those pertaining to employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, and any other factors the Human Resource Director or designee or Mayor or City Council believes relate to fair and efficient administration of the City, including, but not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. Disciplinary action shall follow the guidelines set forth in these Personnel Policies. A determination of the level of disciplinary action shall also be made on a case-by-case basis. A written record of disciplinary action taken shall be kept, including verbal reprimands.

In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses, or any other person connected with the investigation of the complaint of sexual harassment.

Upon receipt of a report on the investigation of a complaint of sexual harassment against a Department Head, the Mayor or a Councilmember, the report shall be presented to the City Council. If the City Council determines that the complaint of sexual harassment is founded, it may discipline the Department Head, Mayor or Councilmember consistent with State law, City ordinances, resolutions, and these policies.

In cases of sexual harassment committed by a non-employee against a City employee in the workplace, the Department Head shall take all lawful steps to ensure that the sexual harassment is brought to an immediate end.

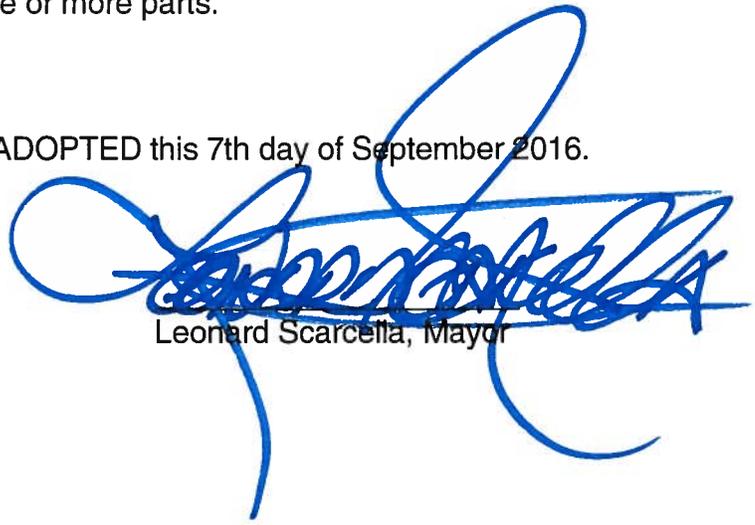
9. Employee Cooperation.  
Employees are not only encouraged to report instances of sexual harassment; they are obligated to report instances of sexual harassment. Employees are obligated to cooperate in every investigation of sexual harassment, including, but not necessarily limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment. Employees are also obligated to refrain from filing bad faith complaints of sexual harassment. Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.
10. Remedies not Exhaustive.  
This policy is not intended to replace, but is in addition to any rights or remedies an employee may have under state and federal laws.

**Section 4.** That all other policies and ordinances of the City that are in conflict with the changes made herein are amended to the extent they conflict with this ordinance.

**Section 5.** In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it

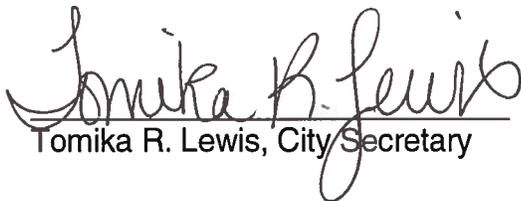
shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Stafford, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 7th day of September 2016.

A large, stylized handwritten signature in blue ink, likely belonging to Leonard Scarcella, the Mayor. The signature is highly cursive and loops around the text below it.

Leonard Scarcella, Mayor

ATTEST:

A handwritten signature in black ink, reading "Tomika R. Lewis". Below the signature is a horizontal line, and underneath that line is the printed name and title: "Tomika R. Lewis, City Secretary".

Tomika R. Lewis, City Secretary