SECTION V: SEXUAL/GENDER HARASSMENT

1. GENERAL POLICY. It is the policy of Tremonton City that the work environment is free from behavior or conduct of a sexual/gender based nature which is demeaning, ridiculing, or derisive and results in a hostile, abusive, or unwelcome workplace.

2. MISCONDUCT – CAUSES FOR DISCIPLINARY ACTION.

   A. Misconduct associated with sexual/gender harassment shall not be tolerated and is cause for disciplinary action, up to and including termination. Misconduct associated with sexual/gender harassment may occur while an employee is on-duty or off-duty, and includes but is not limited to the following:

      (1) Any giving or withholding of tangible job benefits based on the granting of sexual favors (Quid Pro Quo).

      (2) Any sex role stereotyping where a supervisor gives a work assignment on the traditional historic perceptions regarding the types of jobs that specific gender may/should perform or comments or written material reinforcing traditional historic perceptions regarding gender.

      (3) Any behavior or conduct of a sexual/gender based nature which is demeaning, ridiculing, or derisive and results in a hostile, abusive, or unwelcome work environment constitutes sexual harassment or creating an environment that demonstrates a demeaning, ridiculing, or derisive attitude toward a specific gender.

      (4) Any intentional behavior predicated on gender or expressing sexuality which is directed at a specific group or individual. The offensive conduct may be verbal, visual, or physical including unwanted physical touching of a non-criminal nature.

      (5) Any intentional unwanted touching of the breasts, buttocks, or genitals of another or forcible sexual abuse.

      (6) Any employee who has knowledge of a sexual/gender harassment situation and fails to report the harassment to their supervisor. Employees, who fail to report, allowing the harassment to persist, become implicated in the sexual/gender harassment.

      (7) Any deliberate, unwanted, or unwelcome behavior of a sexual/gender based nature, whether verbal, non-verbal, or physical is prohibited.

      (8) Any clearly false or bad faith claims made by an accuser regarding sexual or gender harassment.

(9) Any sexual behavior or activity on City time or with City equipment including, but not limited to, cell phones, email, computers, etc. whether the behavior or activity is consensual or not is prohibited.

3. CATEGORIES AND LEVELS OF SEXUAL/GENDER HARASSMENT.

A. Two major categories of sexual/gender harassment are:

(1) Quid Pro Quo, or the granting or conditioning of tangible job benefits for the granting of sexual favors.

(2) Creating a hostile or unwelcome work environment.

B. Four levels of sexual/gender harassment include:

(1) Level One: Sex role stereotyping.

(a) Assignments made or denied solely on the traditional historic perceptions regarding the types of jobs that specific gender may/should perform.

(b) Comments or written material reinforcing traditional historic perceptions regarding gender.

(2) Level Two: Gender harassment/discrimination.

(a) Intentional or unintentional behavior/conduct of a visual or verbal nature directed at a specific gender which is demeaning, ridiculing, or derisive.

(b) Creating an environment that demonstrates a demeaning, ridiculing, or derisive attitude toward a specific gender.

(3) Level Three: Targeted or individual harassment.

(a) Intentional behavior predicated on gender or expressing sexuality which is directed at a specific group or individual.

(b) Offensive conduct may be verbal, visual, or physical including unwanted physical touching of a non-criminal nature.

(4) Level Four: Criminal touching.

(a) The intentional unwanted touching of the breasts, buttocks, or genitals of another.

(b) Forcible sexual abuse.

4. TYPES OF NOTIFICATION. Any employee who is being sexually harassed or who has personal knowledge of clearly offensive conduct may address the issue either through the informal or formal processes described below:

A. Informal Action.

(1) Employees who are experiencing an unwelcome or hostile work environment at Level One, Level Two, or Level Three as described above may, if they so desire, choose to address that unwelcome behavior/conduct informally by notifying the individual responsible for the behavior of the behavior that is objectionable, that the conduct/behavior is unwelcome, and that future similar behavior shall result in a formal complaint. Employees experiencing sexual harassment at this level are not required to use the informal process and may file a formal complaint with their supervisor if they so desire.

(2) This notification may be:

(a) Verbally, in person.

(b) In writing, signed or unsigned.

(c) Through a supervisor, verbally or in writing. The victim may:

(1) Ask the supervisor for assistance in determining what to say and how to approach the offending employee.

(2) Request the supervisor to accompany the victim when the victim gives the offending employee notice.

(3) Ask the supervisor to give notice to the offending employee, accompanied by the victim.

(4) Ask the supervisor alone to provide notice to the offending employee.

B. Formal Action.

(1) Employees who are experiencing an unwelcome or hostile work environment which is clearly offensive or at Level Four as described above, or who have been subjected to Quid Pro Quo type sexual harassment, shall address that unwelcome behavior/conduct through a formal complaint.

(2) Formal complaints shall be in writing and specify:

(a) The identity of the victim.

(b) The identity of the offending employee.

~~(c) The offensive behavior that the employee engaged in.~~

(d) The frequency of the offensive behavior.

(e) Damage the victim suffered as a result of the offensive behavior.

(f) How the victim would like the matter settled or what the victim would like to see happen.

(3) The victim shall be allowed a reasonable amount of time during work to prepare a formal complaint.

(4) The victim shall submit formal written complaints to their Department Head. If the Department Head is the employee engaging in the offensive behavior, the formal complaint shall be submitted to the City Manager or the Mayor. Department Heads shall contact the City Manager or Mayor upon receiving a formal written complaint.

(5) City Officials who are aware of alleged criminal touching which includes the intentional and unwanted touching of the breasts, buttocks, or genitals or forcible sexual abuse shall contact the Police Department.

5. DISCIPLINARY ACTION. Any disciplinary action associated with sexual/gender harassment misconduct shall by in accordance with Section VII: Disciplinary Action.

6. MAINTAINING SEXUAL/GENDER HARASSMENT COMPLAINT FILES. Any paper documentation related to any sexual harassment complaint, proceeding, or resolution shall be maintained in separate and confidential sexual harassment complaint files in accordance with Section X: Record Keeping.

7. VICTIM PROTECTION.

A. Individual complaints, either verbal or written, are confidential and for purposes of the Utah Government Records Access & Management Act ("GRAMA") shall be classified as "Private".

B. Victims of alleged sexual harassment shall not be required to confront the accused outside of a formal proceeding.

C. The accused shall not contact the victim regarding the alleged harassment.

D. Retaliation or reprisals are prohibited against any employee who opposed a practice forbidden under this policy, or who has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

(1) Any employee engaging in prohibited retaliatory activities shall be subject to disciplinary action up to and including termination and, when applicable, shall be reported to law enforcement. Retaliation may consist of, but is not limited to, any of the following:

(a) Open hostility.

(b) Exclusion or ostracism.

(c) Special or more closely monitored attention to work performance.

(d) Assignment to demeaning duties not otherwise performed during the regular course of the employee's duties.

(2) Retaliation is an additional and separate disciplinary offense.

Notes: