

ORDINANCE NO. 3361

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, REVISING THE GENERAL GOVERNMENT POLICIES AND PROCEDURES MANUAL BY REVISING CHAPTER 18, SECTIONS 18.4, 18.5, 18.6 AND 18.7 AND ADDING SECTION 18.8 THEREBY REVISING THE PROCEDURES RELATING TO SEXUAL HARASSMENT AND ALLOWING APPEALS TO THE CITY'S TRIAL BOARD FOR CERTAIN DISCIPLINARY ACTIONS TAKEN IN CONNECTION WITH SEXUAL HARASSMENT; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite has adopted a General Government Policies and Procedures Manual; and

WHEREAS, Chapter 1 of the *Policies and Procedures Manual* provides for the revision of the policies and procedures set forth in such manual by adoption of ordinance; and

WHEREAS, it has been determined that the policies and procedures relating to the sexual harassment policy and disciplinary actions are in need of revision.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

Section 1. That the General Government Policies and Procedures Manual is hereby revised by changing Chapter 18, Sections 18.4, 18.5, 18.6 and 18.7, and by adding Section 18.8; said Policies and Procedures Manual in all other respects to remain unchanged.

CHAPTER 18

SEXUAL HARASSMENT

18.4 Employee Responsibility

All City of Mesquite employees are responsible for helping to prevent harassment of any kind. Management will investigate complaints or allegations of harassment or improper verbal or physical conduct to determine if the conduct is interfering with the employee's work performance or is creating an intimidating, hostile or offensive work environment. Employees may raise concerns and make reports of harassment, in good faith, without fear of reprisal. An employee who feels that he or she has witnessed any type of harassment or has been subjected to any type of harassment must use the complaint procedures set out in Section 18.5 below. All employees must cooperate with an investigation into a complaint of sexual harassment.

18.5 Reporting Sexual Harassment

An employee should normally report any harassment complaint to their supervisor. If the employee's supervisor is unavailable or if the employee believes that it would be inappropriate to contact that person, the complaint should be reported to another supervisor in the employee's department or to a supervisor in the Human Resources Department with whom the employee is comfortable. In any event, the supervisor to whom the harassment complaint is reported will notify Human Resources of the complaint.

When a complaint of harassment is reported, the employee will be asked by the Human Resources Director, or other investigating Director or Supervisor, to provide a *signed and dated sworn statement* that details as specifically as possible the alleged harassment. If possible, the written statement should include the dates of the alleged harassment, the number of times it occurred, an explanation of what happened, whether the *alleged harasser was told that the conduct was unwelcome*, and what harm resulted from the alleged harassment.

18.6 Confidentiality

The City of Mesquite will protect all victims and witnesses as much as possible. All complaints and investigations will be treated as *strictly confidential*. Failure of an employee to comply with the confidentiality requirement of an investigation will subject the employee to disciplinary action.

18.7 Administrative Investigation

The Human Resources Director will normally investigate harassment complaints. If it is inappropriate for the Human Resources Director to investigate any harassment complaint, the City Manager will assign another Director or Supervisor to conduct the investigation. Every effort will be made to begin investigating complaints immediately. The investigation will include, but is not limited to, interviewing the complaining party, the alleged harasser and any other employees required to obtain sufficient, factual information upon which a determination can be made. Written statements will be sworn to and interviews may be recorded. All employees must cooperate with the investigation. Failure to do so may result in disciplinary action up to and including termination. Upon completion of the investigation, the Human Resources Director or appointed Director or Supervisor shall present a report of findings to the City Manager.

18.8 Disciplinary Action

If the investigation concludes that harassment has occurred, the report to the City Manager will include a recommendation for remedial and disciplinary action. The City Manager and the department(s) involved will take prompt remedial measures to immediately end the offending misconduct. An employee who is found to have engaged in harassment will be subject to disciplinary action up to and including termination. The City Manager will determine the severity of the discipline which will be determined in accordance with the provisions of Chapter 8 of this Policies and Procedures Manual and on a case by case basis, taking into consideration the severity and nature of the offense, the context in which it occurred and the past record of the employee found to have engaged in harassment. The decision of the City Manager will be final subject to appeal to the Trial Board where the action results in suspension, involuntary demotion or disciplinary termination. The complaining party will be advised of the final disposition of the complaint.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That, as with all policies and procedures contained in the General Government Policies and Procedures Manual, the provisions of this ordinance are not intended to create contractual rights between the City of Mesquite and its employees.


SECTION 5. That upon passage of this ordinance all employees of the City of Mesquite shall be notified of the revisions made herein to the General Government Policies and Procedures Manual.

SECTION 6. That this ordinance shall be effective on and after June 1, 2000.


00102

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DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on the 1st day of May, 2000.


Mike Anderson
Mayor

ATTEST:


Ellen Williams
City Secretary

APPROVED:


B. J. Smith
City Attorney