



# CITY COUNCIL POLICY

## 38

### City Council Code of Conduct

|                 |              |
|-----------------|--------------|
| Adopted date    | May 4, 2020  |
| Revised date    | n/a          |
| Department Name | City Council |

#### **POLICY**

1.01 It is the policy of the City of Burleson (the "City") to uphold, promote, and demand the highest standards of behavior from its Mayor, members of the City Council, employees, and individuals appointed to serve on the city's boards, commissions, committees, task forces, and other appointed advisory groups (collectively referred to herein as "City Officials"). It is also the policy of the City that all City Officials are expected to conduct themselves in an honest and truthful manner while representing the City of Burleson. To further these ideals, the following code of conduct (the "Code") shall govern all elected officials, citizen advisory boards and commissions of the City of Burleson.

#### **PROHIBITED CONDUCT**

2.01 City Officials are required to obey and observe the constitution and laws of the United States of America, the constitution and laws of the State of Texas, and the charter, laws, and policies of the City of Burleson, including but not limited to the following:

A. Harassment and Discrimination. City Officials shall refrain from discriminating against and harassing City employees. All employees of the City of Burleson are legally entitled to a work environment that is free from harassment, including sexual harassment and illegal discrimination. City Officials shall also refrain from discriminating against and harassing citizens and others while acting in an official capacity.

(1) Harassment Definitions:

a) Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based on a person's race, color, ancestry, religion, national origin, age, gender, sex (including pregnancy, sexual orientation), marital status, disability, genetic information, or veteran status.

- b) Sexual Harassment consists of unwelcome sexual advances, requests for sexual favors, verbal, visual, or physical acts of a sexual or sex-based nature, or other misconduct directed at a person's sex.
- (2) Harassment becomes unlawful where:
- a) enduring the offensive conduct becomes a condition of continued employment or other desired action by the City Official, or submission or rejection of the conduct is used as a basis for a decision; or
  - b) the conduct is severe or pervasive enough to create an environment that a reasonable person would consider intimidating, hostile, or abusive.
- (3) Prohibited conduct: The following conduct represents the types of acts which violate this policy regardless of whether the behavior was intended to harass or discriminate. The conduct listed below is not an all-inclusive list:
- a) Physical Harassment: Any actual or attempts at intentional physical contact, assault, impeding or blocking movement, leering; or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status. This includes pinching, patting, grabbing, rape, sexual battery, molestation, brushing against another person's body, poking another person's body, or making explicit or implied threats or promises in return for submission to physical acts.
  - b) Verbal Harassment: Inappropriate gestures, rumors, code words, slurs, jokes, unwanted advances, propositions, and other offensive words or comments on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status whether made in general, directed to an individual, or to a group of people.
  - c) Visual Forms of Harassment: Inappropriate gestures, or demeaning, derogatory, prejudicial, stereotypical, or otherwise offensive written documents or publications such as photographs, cartoons, notes, drawings or pictures on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status. A

picture is presumed sexually suggestive if it depicts a person who is not fully clothed or in clothes that are not suited to a professional environment, or displaying or drawing attention to the private portions of the body.

- d) Preferential treatment or promises of preferential treatment to an individual for submitting to sexual conduct, including soliciting or attempting to solicit any individual to engage in sexual activity for compensation or reward is prohibited.
  - e) Subjecting, or threats of subjecting, an individual to unwelcome conduct when directed at the individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status.
  - f) Other acts of a similar nature on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, sex/gender, age, or veteran status.
- (4) Retaliation Prohibited: Retaliation for harassment or discrimination complaints such as initiating or ordering the initiation of discipline, initiating or ordering the changing of work environments, unreasonably slowing the approval process for a permit or project; intentionally providing inaccurate information, or refusing to cooperate or discuss City related matters with an individual because that individual has complained about or resisted harassment, discrimination or retaliation.

B. Act or threats of physical violence. City Officials shall refrain from any acts or threats of violence by against any other City Official, citizen, visitor, customer, volunteer, or employee in or about any City facility or work site.

C. Abuse of city property. City Officials shall refrain from abusing City property. Abuse of City property is exemplified by, but not limited to, the following:

- (1) negligent damage or destruction of city equipment or property;
- (2) waste of materials or negligent loss of equipment or materials;
- (3) damage caused by use of materials or equipment for purposes other than that for which the materials or equipment were intended.

D. Misconduct. City Officials shall refrain from engaging in any criminal offense which could have an adverse effect on the City or on the confidence of the public in City government.

## **COMPLAINTS OR ALLEGATION OF A VIOLATION OF THIS CODE**

3.01 Initiation of complaints. All complaints or allegations of a violation of this Code of Conduct against a City Official covered by this Code may be presented to the Mayor, any City Council member, the City Manager, the City Secretary, or the Human Resources Director. Complaints received by the Human Resources Director shall be forwarded to the City Manager. All complaints should be forwarded to the City Council for consideration, while maintaining compliance with the Open Meetings Act. Depending on the nature of the complaint, the alleged City Official may be notified about the complaint to the extent deemed necessary to mitigate interaction between the complainant and the alleged City Official until City Council can be convened to review and determine subsequent actions. The complaint may be either oral or written. Written complaints must be signed by the complainant. Oral complaints must be reduced to writing by either the complainant or the person who receives the complaint, and must be signed by the complainant.

3.02 Confidentiality policy. The City will comply with the Texas Public Information Act.

3.03 False or frivolous complaints. If after reviewing a complaint it is determined that a complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided, the City Council may direct appropriate action be taken.

3.04 Investigation of complaints. The City Council shall have the primary responsibility for the enforcement of this Code. The City Council may direct the City Attorney to investigate any apparent violation of the Code or it may employ or appoint any qualified attorney or other qualified person to investigate any violation or series of violations of this code by one or more persons. Any such investigation may utilize the tools outlined in Section 38 of the City's Charter. As part of the investigation, the party complained against shall be provided the opportunity to provide a written response to the complaint. Any written response shall be provided to the City Council, and shall be included in any written report regarding the investigation.

3.05 Sanctions and penalties. If, after an investigation has occurred, the City Council determines a violation of the Code has occurred, the City Council may:

- A. Issue a letter of notification. A letter of notification may be issued in those instances in which the violation is clearly minor and unintentional, or when the party complained against was acting in accordance with an advisory opinion issued by the City Attorney. A letter of notification shall inform the party complained against of appropriate actions to be taken to avoid future violations.
- B. Issue a letter of admonition. A letter of admonition may be issued when the violation is minor and may or may not have been unintentional, but calls for a

more substantial response than a letter of notification.

- C. Issue a letter of reprimand. A letter of reprimand shall be issued when the violation has been committed either intentionally or through disregard of the Code or an advisory opinion issued by the City Attorney.

A determination of violation shall be stated by majority vote of those present during the deliberation in favor of a resolution adopting a sanction provided above.

3.06 Policy Enforcement. If a Member(s) of the City Council believes this policy has been violated, the topic may be placed on a meeting agenda following proper procedure.