1.0 GENERAL

1.1 Sexual harassment is a form of sex discrimination and is prohibited by Title VII of the Civil Rights Act of 1964, Washington State’s Law Against Discrimination, and the Spokane Municipal Code Chapter 1.06.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to all City divisions and departments except for employees represented by the Spokane Police Guild and the Lieutenants and Captains Association.

3.0 REFERENCES

42 USC 2000e et. seq.
RCW chapter 49.60
SMC chapter 1.06

4.0 DEFINITIONS

4.1 "Sexual Harassment" is any verbal, non-verbal, or physical behavior of a sexual nature which is unwelcome, uninvited, and offensive to a reasonable person in the recipient's position and alters the condition of the recipient's
employment. Sexual harassment is a form of employee misconduct which is demeaning to another person and undermines the integrity of the employment relationship. Harassment may be subtle, manipulative and is not always evident. It does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome and is personally offensive. All forms of gender harassment are covered. Men can be sexually harassed; men can harass men; women can harass other women. Offenders can be managers, supervisors, co-workers, and non-employees such as clients or vendors.

4.2 Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

a. Submission to such conduct is either an explicit or implicit term or condition of employment; or,

b. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the recipient; or,

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an objectively hostile or offensive work environment.

4.3 Examples of this type of behavior include but are not limited to the following:

a. Verbal: sexual comments, innuendoes, suggestions, jokes, or pressure for sexual favors.

b. Non-Verbal: suggestive looks, gestures, pictures, cartoons, drawings, posters.

c. Physical: pats or squeezes, deliberate touching, cornering, pinching, attempts to kiss or fondle.

4.4 More specific examples of behavior include, but are not limited to the following:

a. Pranks, or repeated teasing, jokes, or innuendo, in person or via e-mail of a sexual nature;

b. Verbal abuse of a sexual nature;

c. Touching or grabbing of a sexual nature;
d. Repeatedly standing too close to or brushing up against a person;

e. Repeatedly asking a person to socialize during off-duty hours when
the person has said no or has indicated he or she is not interested
(supervisors in particular should be careful not to pressure their
employees to socialize);

f. Giving gifts or leaving objects that are sexually suggestive;

g. Repeatedly making sexually suggestive gestures;

h. Making or posting sexually demeaning or offensive pictures,
cartoons or other materials in the workplace;

i. Off-duty, unwelcome conduct of a sexual nature that affects the
work environment.

j. A victim of sexual harassment can be a man or a woman. The
victim can be of the same sex as the harasser. The harasser can
be a supervisor, co-worker, other Department employee, or a non-
employee who has a business relationship with the Department.

4.5 A “Complaint” of sexual harassment is an allegation of unwelcome
behavior that is sexual in nature.

4.6 A “Preliminary Inquiry” is a preliminary evaluation of the circumstances of
a complaint to determine if an investigation is necessary.

4.7 “Investigation” is a complaint inquiry process initiated in response to an
allegation of sexual harassment. When it is determined from a preliminary
inquiry that there are allegations that, if found true, would constitute sexual
harassment, further appropriate investigation is required. No inference of
wrongdoing should be made because a preliminary inquiry or investigation
process has been initiated.

5.0 POLICY

5.1 It is the City of Spokane’s policy that there shall be no discrimination or
harassment of any employee based on sex. The City of Spokane has
zero tolerance regarding sexual harassment and does not condone and
will not permit sexual harassment of any employee. Same-sex sexual
harassment is also prohibited. All employees are expected to abide by
this policy. Anyone who violates this policy will be subject to disciplinary
action up to and including discharge.
5.2 Potential Liability Of The City And Individual Employee

5.2.1 The City and individual employees can be held liable for sexual harassment.

5.2.2 The City may be liable for sexual harassment by supervisors regardless of whether or not the City is aware of the behavior.

5.2.3 The City may be liable for sexual harassment by co-workers if the City knew, or should have known, of the conduct.

6.0 PROCEDURE

6.1 Complaint Procedure

6.1.1 A complainant is encouraged to use the City’s complaint procedures to resolve sexual harassment complaints. Complaints may also be filed, within certain time frames, with appropriate state and federal agencies, such as:

State of Washington
Washington State Human Rights Commission, Rockpointe Plaza 3, 1330 North Washington Street, Suite 2460, Spokane, WA 99201, (509) 568-3196, TDD (800) 300-7575, Voice (800) 233-3247

Federal Government

Office of Federal Contract Compliance Programs
U.S. Department of Labor- OFCCP
Seattle District Office
300 5th Ave. Suite 1100
Seattle, WA 98104
Phone: (206) 398-8005

6.1.2 The sexual harassment complaint procedure does not limit any procedures available under any existing federal or state law.

6.1.3 An employee who experiences unwelcome sexual behavior may assertively tell the offending person that the conduct is unwelcome
and must cease immediately. It is not required that an employee
tell the offending person that the conduct is unwelcome.

6.1.4 Internal Complaint Procedure: If the employee chooses not to
address the offending person, and the employee desires an internal
resolution of the complaint, the process outlined below shall be
followed:

a. Accepting Complaints: A complaint may be submitted to a
supervisor, manager, director or the Human Resources
Department by telephone, email, in writing, or by any other
means of communication. A complaint may also be submitted
anonymously using the City's complaint hotline.

b. No employee shall attempt to discourage, interfere, or delay an
individual from making a complaint.

c. Documentation and Notice to Management: As soon as possible
after the supervisor, manager, director, or the Human
Resources Department receives a complaint pursuant to this
policy, the complaint must be documented in writing on a
 Discrimination/Harassment Complaint Form. The individual
completing the form should specify the date of receipt of the
complaint, summarize the nature of the complaint, and provide
any supporting data that accompanies the complaint or other
pertinent information regarding the complaint.

   i. The individual who documents the complaint must inform
the Human Resources Department and the
department/division director of the complaining party of
the complaint as soon as possible, but no later than five
business days after receipt of the complaint.

d. Confidentiality: To the extent that it does not hinder the
investigation or the resolution of the complaint and is permitted
under local, state and federal laws, management
representatives and any investigator shall maintain the
confidentiality of a harassment complaint.

e. Preliminary Inquiry: The Human Resources Department, in
consultation with the department/division director of the
complaining party, will conduct a preliminary inquiry to
determine if the complaint will activate the investigation process
under this policy. This determination will be made as soon as
possible after receipt of the complaint, making every effort to
make the determination within five business days.
f. **Investigation:** The Human Resources Department shall ensure that any complaint determined to be subject to investigation is assigned to an investigator who shall complete the investigation process as soon as possible, making every attempt to complete the process within one calendar month after determination that investigation is required. The investigator may be a Human Resources Department employee or external investigator, at the discretion of the Human Resources Department Director. If the investigation is not completed within one calendar month, the investigator may be asked to provide the Human Resources Department and the department/division director with a status report.

i. **Union Representation:** The investigator shall assure compliance with any employee’s right to union representation, including the right of the alleged harasser, who may reasonably believe that disciplinary action may be taken based upon his or her statements to the investigator or on the outcome of the investigation.

ii. **Investigation File:** If a matter is referred for investigation, the Human Resources Department will maintain an investigation file. The scope of the investigation will be documented in the investigation file to provide the investigator and parties clear notice of the issues that will be addressed in the investigation. All investigation interviews will be documented in the investigation file in writing.

b. **Response to Complaints:** (appeal process)

i. The department/division director will inform the complainant if the investigation process is activated by the complaint. If the investigation process is not activated, the department/division director will discuss with the complainant options for resolving the issue raised.

ii. The department/division director will review and discuss the completed investigation report with the investigator, and the Human Resources Department Director or his/her designee. The department/division director, in consultation with the Human Resources Department Director or his/her designee, shall determine if corrective action is appropriate.
iii. If it is determined that corrective action is necessary, the department/division director will take appropriate remedial and/or disciplinary action in accordance with the City's Disciplinary Action policy.

6.1.5 Retaliation: No individual will be retaliated against or otherwise adversely affected in employment as a result of making a sexual harassment complaint, or participating in an investigation of sexual harassment, or as a result of being erroneously accused of sexual harassment.

The Department will also take the necessary steps to protect from retaliation those employees who in good faith report incidents of potential sexual harassment. It is a violation of both federal law and this policy to retaliate against someone who has reported possible sexual harassment.

An employee may not be discharged (or discriminated against) in retaliation for opposing discrimination made unlawful by Washington's Law Against Discrimination (WLAD). Nor may an employee be discharged (or discriminated against) in retaliation for filing a charge, testifying, or assisting in a proceeding under WLAD. WLAD prohibits, among other things, discrimination in employment on the basis of age, sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person. Wash. Rev. Code § 49.60.210(1).

It is a violation of RCW 49.60 and Federal anti-discrimination laws to retaliate against someone who opposed a discriminatory action in employment.

6.2 Employee Rights

6.2.1 Employee rights are also protected through remedies available under the Washington State Law against Discrimination, (RCW 49.60), the U.S. Civil Rights Acts of 1964 and 1991, and Spokane Municipal Code Chapter 1.06.

6.3 Complainant’s Responsibilities

6.3.1 Occasionally the offender may not be aware that a behavior is offensive. If at all possible, advise the offending individual that the
conduct in question is offensive, and request that it be discontinued immediately.

6.3.2 If the complainant is not comfortable talking to the offending person and/or the offending conduct continues or reoccurs, the matter should be immediately reported to the complainant’s immediate supervisor, department head or the Human Resources Director.

6.3.3 Employees who witness sexual harassment, hear of it, or know of its occurrence should immediately report it to an appropriate party with whom the employee is comfortable, whether male or female, such as a supervisor, the Department Head, or the Human Resources Director, the bargaining unit, Ombudsman, or Hearing Examiner.

6.3.4 Employees are required to cooperate fully in processing of the complaint. Employees may be allowed to be accompanied by a union representative or a person of comfort. If the employee chooses to be accompanied by an attorney, the cost of the attorney will be the sole responsibility of the employee.

6.3.5 An employee who files a false or malicious complaint of sexual harassment may also be disciplined. Discipline may include dismissal.

6.4 Administration

6.4.1 If a violation continues, the Human Resources Department shall be consulted immediately. The Human Resources Department is to be notified of all sexual harassment complaints so that a record may be maintained as required by the Equal Employment Opportunity Commission.

7.0 RESPONSIBILITIES

The Human Resources Department shall administer this policy.

8.0 CONFLICT WITH OTHER POLICIES

In the event of any conflict between this policy (or any portion thereof) and any other City of Spokane department policy now existing or hereafter adopted, the terms of this policy shall prevail.

9.0 APPENDICES
Sexual Harassment Complaint Form
Anonymous Complaint Information

APPROVED BY:

[Signature]
Human Resources Director

[Signature]
City Attorney

[Signature]
City Administrator

1/31/2018
Date

11/31/2018
Date

01/21/18
Date
DISCRIMINATION/HARASSMENT COMPLAINT FORM

Name: ____________________________ Date: __________________

Phone: _______________ Email: _______________ Department: __________________

Address: __________________________ City: _____________ State: _____ Zip: ______

Is this a discrimination/harassment complaint? Yes □ No □ Are you a City employee? Yes □ No □

If yes, have you notified your supervisor? Yes □ No □ If yes, what was the outcome? __________________________

This complaint is based on: (Check all that apply)

□ Age □ Marital Status □ Religion
□ Disability □ National Origin □ Sex/Gender
□ Familial Status □ Race/Color □ Sexual Harassment
□ Workplace Harassment □ Other Please Note: □ Sexual Orientation

Who allegedly discriminated against/harassed you: __________________________

Is the alleged offender a City employee? Yes □ No □ Department: __________________

Where did it take place? __________________________

When did it take place? __________________________

Was this a single incident? Yes □ No □ If more than once, how many times? __________________________

How did the discrimination/harassment take place? __________________________

________________________________

________________________________

________________________________

________________________________

________________________________

Please explain additional details of complaint including why you feel you were discriminated against and or harassed. List any witnesses:

________________________________

________________________________

________________________________

________________________________

________________________________

________________________________
In filing this complaint please explain the resolution you would like:
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
The following information is VOLUNTARY and is requested for statistical purposes

Age: _____ Gender: M ☐ F ☐ Race/Ethnicity ________________ Disability ________________

Signature: ___________________________ Date: ________________

***FOR OFFICE USE***

Complaint received by: Email ☐ Mail ☐ Phone ☐ Walk-In ☐ Prior Appointment ☐

Date complaint received: STAMP HERE

Detail of action taken: ______________________________________________________
________________________________________________________________________
________________________________________________________________________

Referral(s):
Date: ___________________________ To: ___________________________
Date: ___________________________ To: ___________________________

Complaint Closed: ___________________________
Is complainant satisfied with outcome? Yes ☐ No ☐

Complainant Remarks (if any):
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

If you need assistance in filing your complaint please contact the Human Resources Department at the address below or call (509) 625-6703

PLEASE MAIL THIS FORM TO:
CITY OF SPOKANE HUMAN RESOURCES DEPARTMENT, 4TH FLOOR
808 W. SPOKANE FALLS BLVD. SPOKANE, WA 99201-3327
OR FAX TO: (509) 625-6379
A 21st Century workforce is empowered and protected from mistreatment. If you experience or witness employee mistreatment:

- Discrimination
- Harassment or Sexual Harassment
- Workplace Violence or Threatening Behavior
- Workplace Bullying
- Ethics or Municipal Code Violations

Report unacceptable conduct to:

- Supervisor
- Human Resources
- SpokaneCity.EthicsPoint.com
- 844-771-5039
- Whistleblower complaint