

ORDINANCE NO. 08-14

AN ORDINANCE TO AMEND THE PERSONNEL POLICY OF THE CITY OF SPRING HILL, TENNESSEE, ADDING A SEXUAL HARASSMENT POLICY

WHEREAS, the Board of Mayor and Aldermen for the City of Spring Hill wishes to amend the Personnel Policy to add a Sexual Harassment Policy.

WHEREAS, the City of Spring Hill is taking this action by recommendation of TML Risk Management Pool.

BE IT THEREFORE ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE, THE FOLLOWING ADDITION SHALL BE MADE TO THE CITY OF SPRING HILL PERSONNEL POLICY:

SECTION VII, Item R page 54:

R. SEXUAL HARASSMENT

1. Purpose

The City of Spring Hill may be held liable for the actions of all employees with regard to sexual harassment and will not tolerate sexual harassment of its employees. The City will take immediate, positive steps to stop such harassment when it occurs. The City is responsible for acts of sexual harassment in the workplace when the City (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the City took immediate and appropriate corrective action. The City may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the City (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

This policy applies to all officers and employees of the City of Spring Hill, including but not limited to full and part time employees, elected officials, permanent and temporary employees, employees covered or exempt from personnel rules or regulations of the municipal government, and employees working under contract for the municipality. The following rules shall be strictly enforced.

2. Definitions

The following actions constitute an unlawful employment practice and are absolutely prohibited by the City of Spring Hill when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

- a. sexual harassment or unwelcome sexual advances;
- b. requests for sexual favors;
- c. verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
- d. explicit or implied job threats or promises in return for submission to sexual favors;
- e. inappropriate sex-oriented comments on appearance;
- f. embarrassing sex-oriented stories;
- g. displaying sexually explicit or pornographic material, not matter how the material is displayed; and/or;
- h. sexual assault on the job by supervisors, fellow employees, or, on occasion, non-employees

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, conducted directed at women toward women.

3. Making Sexual Harassment Complaints

An employee who feels he/she is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be orally or in writing to:

- a. The employee's immediate supervisor
- b. The Board of Mayor & Aldermen (as a group or individually)
- c. The City Administrator
- d. The City Recorder

Employees have the right to circumvent the employee chain of command when selecting the person to complain to about sexual harassment. The employee should be prepared to provide the following information:

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

4. Reporting and Investigation Sexual Harassment Complaints

The Mayor is the person designated as the investigator of sexual harassment complaints against employees. In the event the sexual harassment complaint is against the Mayor, the investigator shall be an aldermen appointed by the Board of Mayor and Aldermen.

When an allegation of sexual harassment is made by an 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 appropriate investigator (Mayor or Alderman). The designated investigator shall:

- a. make and keep a written record of the investigation at the time the verbal interviews are in progress, including notes on:
 1. verbal responses made to the investigator by the person complaining of sexual harassment,
 2. witnesses interviewed during the investigation,
 3. verbal responses made to the investigator by the person against whom the complaint of sexual harassment was made, and
 4. any other person contacted by the investigator in connection with the investigation;

- b. within 10 days of receiving the complaint, prepare and present the findings in a report, which will include:
 1. the written statement of the person complaining of sexual harassment,
 2. the written statements of witnesses,
 3. the written statement of the person against whom the investigation was made, and
 4. all the investigator's notes connected to the investigation

If the complaint is against the Mayor, the investigator's report will be presented to the Board of Mayor and Aldermen.

5. Action on Complaints of Sexual Harassment

Based upon the results of the investigation, the Mayor (or Board) shall, within a reasonable time, determine whether the conduct in question constitutes sexual harassment. In making that determination, the Mayor (or Board) shall look at the record as a whole and at the totality of the circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. Whether sexual harassment took place will be determined on a case-by-case basis.

If the Mayor (or Board) determines that the harassment complaint is founded, he (it) shall take immediate and appropriate disciplinary action against the guilty employee, consistent with his authority under the municipal charter, ordinances, resolutions, or rules governing his authority to discipline employees. If the Mayor feels that the harassment warrants disciplinary action stronger than he is authorized to impose by the charter, ordinances, resolution, or rules governing employee discipline, he shall make that determination known, along with the report of the investigation, to the governing body of the City. If the governing body determines that the sexual harassment complaint is founded, it may discipline the employee consistent with its authority under the municipal; charter, ordinances, resolutions, or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the employee's rank and any other factors the governing body believes relate to fair and efficient administration of the municipal government. This includes, but is not limited to, the effect of the offense on the employee morale, public perception of the offense, and the light in which it casts the municipality. The disciplinary action may include demotion, warning, or reprimand. Determining the level of disciplinary action shall also be made on a case-by-case basis. A written record shall be kept of imposed disciplinary actions, 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, witnesses, or any other person connected with the investigation.

In cases where sexual harassment is committed by a non-employee against a municipal government employee in the workplace, the Mayor shall take whatever lawful action is necessary against the non-employee to bring sexual harassment to an immediate end.

6. Obligation of Employees

Employees are not only encouraged to report instances of sexual harassment; they are obligated to report them. Employees are also obligated to cooperate in every harassment investigation. The obligation includes, but is not necessarily limited to, coming forward with evidence (both favorable and unfavorable) about a person accused of such conduct, fully and truthfully making written reports, or

verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

BE IT FURTHER ENACTED, that all ordinances or parts of ordinances in conflict herewith, be and the same hereby, are repealed or modified as the case may be.

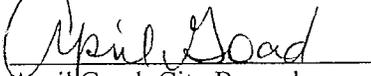
BE IT FURTHER ENACTED, that this Ordinance shall take effect from and after its adoption.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee, on the 19th day of February, 2008.



Danny M. Leverette, Mayor

ATTEST:


April Goad, City Recorder

LEGAL FORM APPROVED:


Timothy P. Underwood, City Attorney

Passed on 1st Reading January 22, 2008

Passed on 2nd Reading February 19, 2008