



MEMORANDUM
Office of the City Attorney

Legistar No. **991374**

Phone: 334-5011/Fax 334-2229
Box 46

June 26, 2000

TO: Mayor and City Commission

DATE: ~~June 12, 2000~~
~~FIRST READING~~
SECOND READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-00-65
An ordinance of the City of Gainesville, Florida, adopting the City of Gainesville Equal Opportunity Complaint Policy (Policy No. 36); providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

At its meeting of May 8, 2000, the City Commission accepted the recommendation of the Blue Ribbon Committee on Equal Opportunity to adopt the internal investigative process as described in the current Equal Opportunity Handbook by ordinance. The proposed ordinance incorporates by reference the Equal Opportunity Complaint Policy (Policy No. 36).

Prepared by: *Elizabeth A. Waratuke*
Elizabeth A. Waratuke,
Litigation Attorney

Approved and
Submitted by: *Marion J. Radson*
Marion J. Radson,
City Attorney

MJR:EAW:sw

Passed on first reading by a vote of 4-0.

D R A F T

5-22-00

ORDINANCE NO. _____
0-00-65

1
2
3
4 **An ordinance of the City of Gainesville, Florida, adopting the**
5 **City of Gainesville Equal Opportunity Complaint Policy**
6 **(Policy No. 36); providing a severability clause; providing a**
7 **repealing clause; and providing an immediate effective date.**
8

9 **WHEREAS**, on July 12, 1999, the City Commission adopted the City of Gainesville
10 Equal Opportunity Policy Handbook by resolution # 981300; and

11 **WHEREAS**, the Equal Opportunity Policy Handbook includes the Equal Opportunity
12 Complaint Policy (Policy No. 36) describing the City's internal investigative process for
13 complaints of discrimination, retaliation, harassment, and other related matters; and

14 **WHEREAS**, on May 8, 2000 the City Commission accepted the recommendation of the
15 Blue Ribbon Committee on Equal Opportunity to adopt the internal investigative process
16 as described in the current Equal Opportunity Handbook by ordinance; and

17 **WHEREAS**, at least 10 days notice has been given once by publication in a newspaper of
18 general circulation notifying the public of this proposed ordinance and of a Public
19 Hearing in the Auditorium of City Hall in the City of Gainesville; and

20 **WHEREAS**, a Public Hearing was held pursuant to the published notice described at
21 which hearing the parties in interest and all others had an opportunity to be and were, in
22 fact, heard;

23 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
24 **CITY OF GAINESVILLE, FLORIDA:**

25 **Section 1.** The Equal Opportunity Complaint Policy (Policy No. 36), a copy of which is
26 attached and made a part of this ordinance by reference, is hereby adopted.

27 **Section 2.** If any section, sentence, clause or phrase of this ordinance is held to be invalid

D R A F T

5-22-00

1 or unconstitutional by any court of competent jurisdiction, then said holding shall in no
2 way affect the validity of the remaining portions of this ordinance.

3 **Section 3.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
4 such conflict hereby repealed.

5 **Section 4.** This ordinance shall become effective immediately upon final adoption.

6 PASSED AND ADOPTED this _____ day of _____, 2000.

7
8
9

PAULA M. DeLANEY
MAYOR

10
11
12
13
14
15

ATTEST:

Approved as to form and legality

16
17
18
19

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

20 This Ordinance passed on first reading this ___ day of _____ 2000.

21
22
23

22 This Ordinance passed on second reading this ___ day of _____, 2000.

24 carter:ordinances:adopt investigative process

EQUAL OPPORTUNITY COMPLAINT POLICY

(Policy No. 36)

The City is committed to maintaining a workplace free of discrimination, harassment, and inappropriate behavior on the basis of race, color, gender, age, religion, national origin, marital status, sexual orientation, or disability (protected characteristics). The City is responsible for ensuring that all actions dealing with personnel and employment practices will be in accordance with equal employment laws, policies, and procedures and that services, programs, and activities will be in accordance with applicable laws, policies, and procedures. Employees and applicants for employment and citizens utilizing City services will be given the opportunity to voice complaints of discrimination, harassment, or inappropriate behavior. Such complaints will be given prompt and fair consideration and every effort will be made to resolve them rapidly. Employees, applicants, or citizens registering complaints of discrimination, harassment, or inappropriate behavior will be free from reprisal, harassment, intimidation, or retaliation. The receipt, investigation and resolution of complaints shall be in accordance with equal opportunity laws, policies, and procedures. The Equal Opportunity Director shall develop procedures for investigation of complaints.

In carrying out the City's formal or informal Equal Opportunity Complaint investigations, all information either received, solicited, or compiled during the course of said investigation, whether in written, verbal, or other form, will be protected and remain strictly confidential to the extent allowed by Florida law. All City employees are required to cooperate fully with the Equal Opportunity Department during any formal or informal investigation.

Formal Complaints:

1. The affected employee or citizen will complete a "Complaint of Discrimination" form in the Equal Opportunity Department within one hundred-eighty (180) days of the employee's or citizen's knowledge of the alleged act of discrimination.
2. The Charter Officer or designee will have ten (10) working days from receipt of the complaint and request, in which to provide information and/or documents requested by the Equal Opportunity Department Director. Any additional requests for information and/or documents should be completed within the timeframe specified by the Equal Opportunity Director. The response deadlines may be extended by the Equal Opportunity Director.
3. The Equal Opportunity Department Director or designee, may work alone or in conjunction with other investigator (s) selected by the Equal Opportunity Director to conduct a formal investigation of the alleged charges, which may include an informal hearing of persons involved, and on-site interviews of other employees who may have witnessed the alleged discriminatory act(s). If other investigator(s) are used, they will work under the direction and supervision of the Equal Opportunity Director or designee and all investigative plans, interviews, requests for information, work, and scope of work will be coordinated and approved through the Equal Opportunity Director or designee. All reports of the investigator(s) will be submitted to the Equal Opportunity Director or designee.
4. The complainant and the alleged discriminating party may give a list of witnesses to be interviewed by the Equal Opportunity Department Director or other investigator(s) in support or denial of charge(s) of discrimination. Also, any documents related or pertinent to the allegation(s) should be submitted to the Equal Opportunity Director or designee.
5. Prior to completing the final written investigation report, the Equal Opportunity Director will meet with the Charter Officer or designee and will consult with the City Attorney's Office regarding the preliminary results of the investigation. The Charter Officer or designee will be allowed to present additional information.

6. Upon completion of the investigation, the Equal Opportunity Department Director will submit a written investigative report of findings directly to the Charter Officer. If the complaint makes personal and direct allegations against a Charter Officer, the written investigative report will be submitted to the City Commission by the Equal Opportunity Director and the City Auditor.
7. If the complaint is against an employee working under the Charter Officer, the respective Charter Officer will meet with the Equal Opportunity Department Director to discuss the complaint or report. The Charter Officer will issue a written response directly to the Equal Opportunity Department Director and the complainant within fifteen (15) working days after receipt of the Equal Opportunity Department Director's written investigative report.

Investigation Coordination:

If the investigation will be conducted by external investigators, the Equal Opportunity Director shall prepare the necessary paperwork and develop any evaluative criteria to be used. The Equal Opportunity Director shall be responsible for selecting the investigator(s). The Equal Opportunity Director shall receive the report(s) of the investigator(s) and ensure that any contractual terms have been fulfilled. Funds for contracting with external investigators will be allocated in the Equal Opportunity Department's budget.

Informal Complaints:

Informal Complaints are complaints that have not been notarized. An employee/applicant or citizen who believes that he/she is the victim of discrimination may informally contact the Equal Opportunity Department Director or designee or a supervisor or manager. The Equal Opportunity Department Director or designee will attempt to resolve the issue or concern, if necessary.

Confidentiality of Negotiations for Resolution:

During formal negotiations for resolution of formal or informal complaints, offers and statements made by parties shall not be used by or against either party if resolution attempts fail. Parties involved in resolution attempts should be given the opportunity to explore reasonable avenues of relief.

