TOWN OF HILLSBOROUGH
PERSONNEL POLICY

POLICY 203 LAST REVISED 8/1/08

SUBJECT: UNLAWFUL DISCRIMINATION/HARASSMENT/RETALIATION

PURPOSE: To establish a policy prohibiting all forms of unlawful harassment, discrimination and retaliation and to establish reporting procedures.

STATEMENT OF POLICY:

Unlawful discrimination is prohibited
The Town of Hillsborough is an equal opportunity employer. In accordance with applicable law, the Town prohibits harassment and discrimination based on race, color, religion, sex, pregnancy, age, national origin or ancestry, physical or mental disability, marital status, medical condition, sexual orientation, gender identity, veteran status or any other consideration protected by federal, state or local laws. All such discrimination is unlawful. The Town's commitment to equal opportunity employment applies to all persons involved in the operations of the Town and prohibits unlawful discrimination by an employee of the Town, including supervisors and co-workers.

Disabilities / Reasonable Accommodation Requests
To comply with applicable laws ensuring equal employment opportunities to qualified individuals with a disability, the Town will provide reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue hardship would result. Any applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact Human Resources and request such an accommodation. The individual with the disability should specify in writing what accommodation he or she needs to perform the job. If the accommodation is reasonable and will not impose an undue hardship, the Town will make the accommodation. The Town may also propose an alternative accommodation(s) and maintains the right to select between multiple potential reasonable accommodations.

Unlawful Harassment is Prohibited
In accordance with applicable law, the Town prohibits sexual harassment and harassment based on race, color, national origin, ancestry, religion, creed,

pregnancy, physical or mental disability, medical condition, marital status, sexual orientation, gender identity, age or any other basis protected by federal, state or local laws. All such harassment is unlawful and will not be tolerated.

This policy applies to all persons involved in the operation of the Town and prohibits harassment by any employee of the Town, including supervisors and co-workers. The Town's policy also prohibits harassment of employees by non-employees.

Unlawful harassment in employment may take many different forms. Examples include:

- **Verbal conduct** such as epithets, derogatory comments, slurs or unwanted comments and jokes;
- **Visual displays** such as derogatory posters, cartoons, drawings or gestures;
- **Physical conduct** such as assault, blocking normal movement, restraint, touching or other physical interference with work directed at an individual; or
- **Threats and demands** to submit to certain non work-related conduct or perform certain non work-related actions in order to keep or get a job, to avoid some other loss or as a condition of job benefits, security or promotion.

Unlawful sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or a condition of the individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

The Town prohibits use of the computers, e-mail system, voice mail system and any other electronic media in ways which are offensive to others, or are otherwise discriminatory, harassing or obscene, or for any other purpose which is illegal, against Town policy or not in the best interest of the Town. For example, the display or transmission of sexually explicit images, jokes, messages and cartoons is prohibited. Other such misuse of electronic media includes, but is not limited to, ethnic slurs, racial comments, off-color jokes or anything that may be construed as harassment, discrimination or showing disrespect for others. Any such use of the computers, e-mail system, voice mail system or other electronic media will be considered a violation of the Town policy.

Town's Reporting Procedure

The Town's reporting procedure provides for a thorough and objective investigation of any discrimination, harassment or retaliation claim. If you believe you have been discriminated against or harassed on the job, or if you are aware of the discrimination

or harassment of others, please provide a written or verbal report to your supervisor, any other Town supervisor, Human Resources or the Assistant City Manager as soon as possible. The report should include details of the incident(s), the names of individuals involved, the names of any witnesses, direct quotes when relevant and any documentary evidence (emails, notes, pictures, cartoons, etc.). The Town will conduct a thorough and objective investigation and attempt to resolve the situation. The investigation will be completed and a determination made and communicated to the employee as soon as practical. The Town will endeavor to protect the privacy and confidentiality of all parties involved to the extent possible consistent with a thorough investigation.

If the Town determines that prohibited harassment or other conduct that violates Town policy has occurred, the Town will take effective remedial action commensurate with the circumstances, up to and including termination of the alleged harasser. Appropriate action will also be taken to deter any future proscribed discrimination or harassment. The complaining employee will be informed of any action taken by the Town against the harassing or discriminating party.

Protection Against Retaliation

Applicable law also prohibits retaliation against any employee for, in good faith, reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding or hearing conducted by the Town or a federal or state enforcement agency. Please report any retaliation to your supervisor, any other Town supervisor, Human Resources or the Assistant City Manager. Any report of retaliatory conduct will be objectively and thoroughly investigated in accordance with the Town's investigation procedure outlined above. If a report of retaliation is substantiated, appropriate disciplinary action, up to and including termination, will be taken.

Liability for Unlawful Harassment

Any Town employee, including any supervisor or manager, who is found to have engaged in prohibited harassment or other conduct that violates Town policy is subject to disciplinary action up to and including termination from employment. Any employee who engages in prohibited harassment or other conduct that violates the Town's policies, including any supervisor who knew about the prohibited harassment but took no action to stop it, may be held personally liable for monetary damages. The Town does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequence of the discharge of one's duties. Accordingly, to the extent permitted by law, the Town reserves the right not to provide a defense or pay damages assessed against an employee for conduct in violation of this policy.

Additional Enforcement Information

In addition to the Town's internal reporting procedure, employees should also be aware that the federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate and

prosecute reports of harassment or discrimination in employment. Employees who believe that they have been harassed or discriminated against may file a report with these agencies. Both the EEOC and the DFEH serve as neutral fact-finders and attempt to help the parties voluntarily resolve disputes.

For more information, contact Human Resources. You may also contact the nearest office of the EEOC or the DFEH. However, in no case should an employee rely on such materials and/or information provided by Human Resources. An employee should always seek his/her own legal counsel on such matters.

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