



**FARMERS BRANCH**  
TEXAS

# Harassment and Hostile Work Environment Awareness

Study Session Meeting | October 8, 2025

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Requested By: Mayor Pro Tem Tina Bennett-Burton, Deputy Mayor Pro Tem Roger Neal, and Councilmember Omar Roman

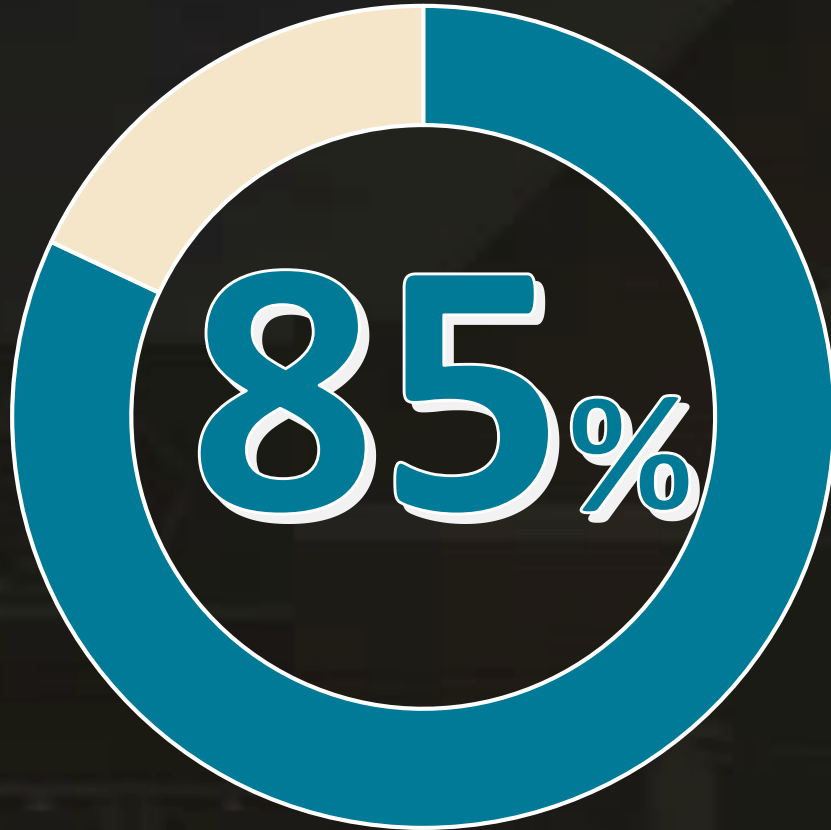


# 88,531

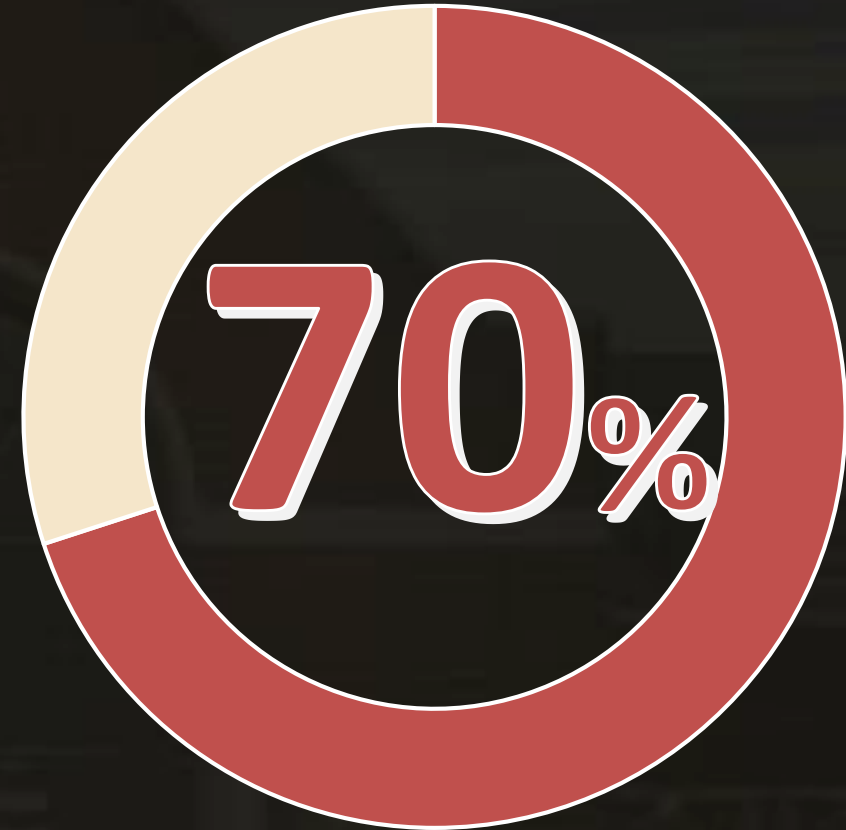
New cases of discrimination and harassment filed with the EEOC in 2024.

88,531

New charges filed with the EEOC in 2024.



Never file a formal charge.



Never report it, even internally.





Defining Your Role As An Elected Official

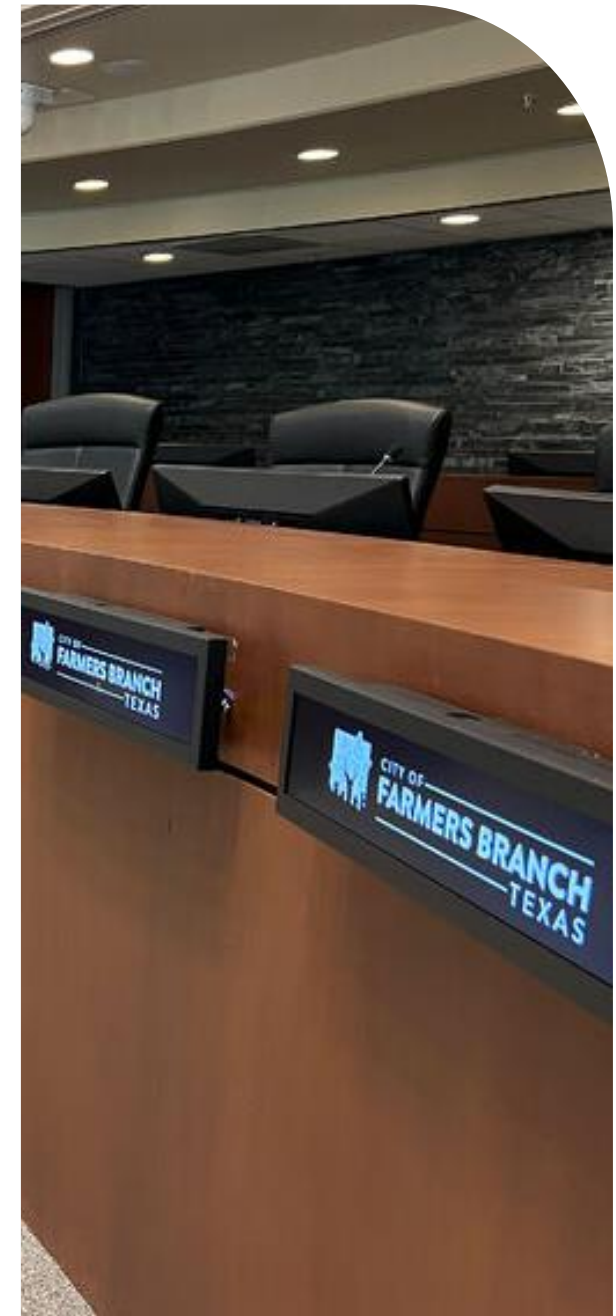
## Are Elected Officials “Employees”?

Yes, and also, no. While the IRS, Department of Labor, Attorney General and others consider you “employees”, you are not considered employees under EEOC and Texas Workforce Commission Rules.

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## You are an official “Agent” of the City.

An “Agent” is any representative of the employer that officially acts in the interests of the employer or it’s employees. The EEOC and TWC define you as “Agents” of the City, and you share the same liabilities and responsibilities of any other employee related to the prevention and awareness of harassment, discrimination, retaliation and hostile work environment.





Defining Your Role As An Elected Official

## **You are an official “Agent” of the City.**

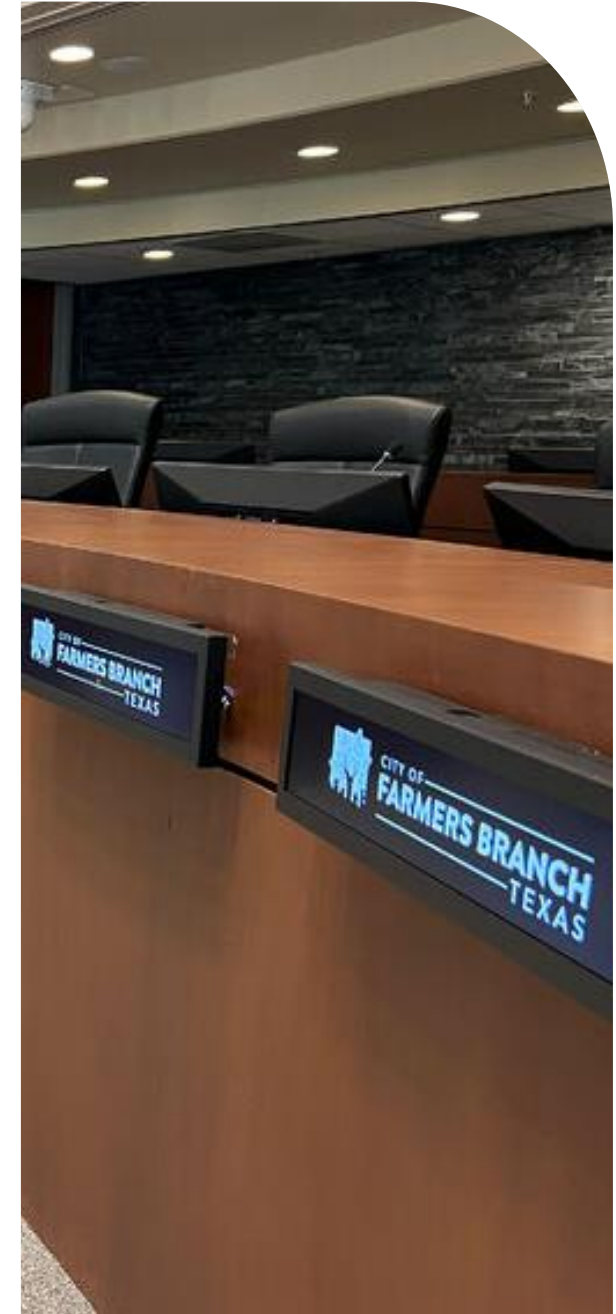
An “Agent” is any representative of the employer that officially acts in the interests of the employer. The EEOC and TWC define you as “Agents” of the City, and you share the same liabilities and responsibilities of any other employee related to the prevention and awareness of harassment, discrimination, retaliation and hostile work environment.

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### **“Agents” are defined in:**

- Texas Labor Code 21.002.(8)(B) & (C)
- Title VII of the Civil Rights Act – 42 U.S.C. § 2000e(b)
- Texas Civil Practice & Remedies Code § 101.001(2)
- Texas Penal Code § 39.01(1)

**At all times, you should consider yourself as an official representative of the City that can equally create or prevent any liability just like any other employee.**





# Code of Ethics and the City Charter

Elected Officials are generally not subject to the Personnel Policy Manual that employees follow, as it covers employees under the authority or administration of the City Manager. Many of your “policies” are within your Rules of Procedure, the City Charter and your Code of Ethics.

## City Charter

### **Article II, Section 2.10 – Council not to interfere in City Manager’s appointments or removals**

States that Council shall deal solely through the City Manager for any matters involving City staff, and that they shall not give orders to staff, whether explicitly or implicitly. Covered in Code of Ethics sections as well.

### **Article II, Section 2.19 – Council to be judge of qualifications of its members**

Addresses how the Council is responsible for the conduct of its members and adherence to the provisions in the City Charter, Code of Ethics and established rules of procedure.

### **Article IX, Section 9.18 – Official misconduct**

Addresses official misconduct and violations of law or the Code of Ethics.

### **Article IX, Section 9.17 – Incompetency**

Covers gross carelessness or ignorance in execution of official duties.





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## Code of Ethics

### **Section 2-280(II)(C)(4) – Discrimination, Harassment and Sexual Harassment**

Covers discrimination and harassment, including intimidation, hostility, sexual harassment or any other adverse actions towards others, and that it would be considered the same as if it were to occur in an actual employment relationship.

### **Section 2-280(e) – Relating to interactions with City Manager and Staff**

States that Council Members shall deal solely through the City Manager for matters under City Manager purview. Further states that *“Mayor and City Council shall not give orders or directions to any subordinates of the City Manager, either publicly or privately.”*

### **Section 2-280(f)(II)(E)(3) – Use of Staff**

Reiterates the rules in both Section 2-280(e) and 2.10 of the City Charter related to interactions with staff.

### **Section 2-284 – Complaints against officers**

Lays out the procedures for making official complaints of violations of the Code of Ethics or the City Charter against elected or appointed officials.

### **Section 2-285 – Violations**

Lays out the actions City Council may take when a violation consistent with the process in 2-284 is evaluated.





# State and Federal Laws

No matter our role, position or title, we're all subject to the state and federal laws related to harassment, discrimination, retaliation, and hostile work environment. The most common are cited below.

## Federal Laws

### **Title VII of the Civil Rights Act of 1964**

Defines all of the protected classes and characteristics of employees, procedures for complaints and is the usual starting point for most harassment, discrimination or hostile work environment claims.

### **Americans With Disabilities Act (ADA), Pregnant Workers Fairness Act (PWFA), PUMP Act**

Covers employer obligations related to workplace accommodations, retaliation and harassment because of disability or perceived disability. Also includes substantial protections and requirements for pregnant or breast-feeding mothers.

### **Age Discrimination in Employment Act (ADEA)**

Prohibits the discrimination or harassment of individuals aged 40 and older.

## State Laws

### **Texas Labor Code, Chapter 21**

Mirrors most of Title VII at the federal level, with specific verbiage on individual liability and responsibility of "agents" who know or should have known harassment was occurring.

### **Texas Open Meetings Act**

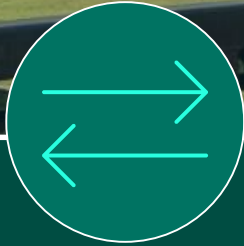
Covers executive session confidentiality, discussions held with less than quorum and provides outlines of the rights of the public to speak.

### **Texas Whistleblower Act**

Prohibits retaliation against employees who report misconduct, specifically in a public agency.



# Types of Harassment



## Quid Pro Quo

Latin for “This for That”.

Happens when a benefit or consequence is proposed in exchange for inappropriate “trades” or favors, which could be explicit or implied.

- “If you do this for me, I’ll vote for your agenda item.”
- “If you don’t do this for me, I’ll make sure your item never comes forward.”



## Hostile Work Environment

The most common type of harassment.

Happens when someone says or does something to someone else, and the other person is offended, or feels harassed, intimidated, discriminated, or retaliated against.

Often, the behavior may not be intentionally hostile but quickly grows into a situation where someone feels unsafe.

Harassment and Discrimination

## What makes a hostile work environment?

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Unwelcomed or unwanted disparate treatment, discrimination, harassment, retaliation and other inappropriate behaviors that is based on a person's protected class or characteristic, including:

- Race, color, religion, sex, age, national origin, disability, or genetic information.
- These behaviors may be verbal, non-verbal, virtual, physical or any single or combination of explicit or non-explicit behaviors.





## Harassment and Discrimination

# What makes a hostile work environment?

Unwelcomed or unwanted disparate treatment, discrimination, harassment, retaliation and other inappropriate behaviors that is based on a person's protected class or characteristic, including:

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The behavior is **severe** enough to disrupt or impair the employee's ability to do their job effectively or maintain a sense of safety in the workplace.



The behavior is **pervasive** enough to form a **consistent pattern** that disrupts or impairs the employee's ability to do their job effectively or maintain a sense of safety in the workplace.



## Harassment and Discrimination

# What makes a hostile work environment?

Unwelcomed or unwanted disparate treatment, discrimination, harassment, retaliation and other inappropriate behaviors that is based on a person's protected class or characteristic, including:

- Race, color, religion, sex, age, national origin, disability, or genetic information.

### Examples:

- Your questions are consistently more critical or skeptical based on an employee's race.
- You consistently treat members of the opposite sex in a disparate or inappropriate manner.
- You are overly critical of information presented by people with a foreign accent or their citizenship status.
- You bend rules or procedures for some groups and not others.





Harassment and Discrimination

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Unwelcomed or unwanted disparate treatment, discrimination, harassment, retaliation and other inappropriate behaviors that is based on a person's protected class or characteristic, including:

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Hostile, demeaning, or inappropriate behavior doesn't have to target a protected class to create problems for the City; disrespectful or hostile behavior of any kind can still lead to complaints, costly lawsuits, and significant reputational harm.



# Types of Behaviors

### Non-Consensual Physical Contact

- Grabbing someone in an attempt to intimidate them.
- Touching, grabbing or groping anyone on any part of their body.
- Shoulder massages, hugging or other inappropriate and uninvited contact.
- Making someone else touch you in a sexual or physical manner.
- Actual or attempted sexual or physical assault.

### Virtual Harassment

- Sending harassing or offensive texts, E-mails, etc...
- Sending or asking for sexually explicit or inappropriate photos, sexual contact or other inappropriate behavior.
- “Cyber-Stalking”, or creating fake social media accounts to gain access to someone’s social media or other internet presences.
- “Tagging” of others on social media without consent.
- Coercing someone with previously received content.

### Non-Verbal Behaviors

- Rolling eyes, dramatic sighs and mock clapping.
- Licking your lips, blowing kisses or making other sexually suggestive motions or gestures.
- Taking pictures of others without their consent.
- Throwing things or slamming drawers or doors for affect.
- Standing over someone or physically close enough to crowd or intimidate them.
- Holding someone up intentionally or blocking their exit.
- Giving someone the “silent” treatment; e.g. ignoring them.

### Verbal Behaviors

- Speech that intimidates, threatens or instills fear.
- Coercive statements that threaten punishment.
- Sexual innuendos that are suggestive or in reference to sexual behavior.
- Sarcasm, mocking or derogatory comments.
- Belittling, demeaning or humiliating remarks.
- Sexually suggestive, insensitive or offensive jokes or comments about another person.



## Harassment and Discrimination

### Retaliation

Consistently the #1 claim and finding from the EEOC and TWC, retaliation is any adverse or negative action taken against someone who participates in any protected activity, including but not limited to:

- Reporting misconduct, harassment or discrimination against any employee, supervisor or agent of the City.
- Speaking up about legally protected topics regarding the workplace.
- Participating in an investigation related to complaints, to include serving as a witness or providing written/verbal statements.
- Requesting a reasonable accommodation through the ADA process.
- Taking protected leave, such as FMLA.
- Bringing forth complaints on someone else's behalf.

### Adverse Actions

- No longer allowing the person to present or speak at official meetings.
- Ignoring E-mails, phone calls and refusing to respond or otherwise communicate to essential issues.
- Being irregularly aggressive, dismissive or hostile in your questions at Council meetings.
- Attempting to dissuade them from making a complaint or participating in an investigation.
- Punishing the person through a "third party" avenue, such as targeting their relatives or business, or a witness who supported the complaint.
- Openly defaming, labeling or embarrassing them in meetings or on social media.



## Harassment and Discrimination

### Retaliation Is Simple

Someone does something that they are allowed to do.

We take an adverse or disparate action against them.

### Why It's The Most Common Finding

- The original complaint, whether it has merit or not, isn't the key issue to prove anymore.
- If the person made a complaint or engaged in any protected activity and was then unreasonably or unduly affected by it, that can be simple retaliation.
- The original complaint may still be investigated and found true alongside the retaliation, resulting in higher penalties and consequences.
- The original complaint can be found untrue while the claim of retaliation is found to be true.



## Harassment and Discrimination

### Consequences and Implications

- Per the Texas labor code, we commit an **illegal employment action** if any of the actions we've discussed occur, and we:

**1**

Knew, or should have known, that the behavior or actions were occurring.

**2**

Failed to take immediate and appropriate action.



**Reputational  
Damage**



**Civil Lawsuit  
Liability**



**Jail Time  
Or Criminal Charges**



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**Reputational**  
Damage



**Civil Lawsuit**  
Liability



**Jail Time**  
Or Criminal Charges

**Under Texas law, as an agent representing the City, you can be personally sued apart from the City, and would be responsible for your own lawyer, court and time.**





# What Do I Do If I Experience Harassment, Retaliation, or Discrimination?

1

## Tell The Person To STOP.

Whenever possible, and if you feel safe enough, tell the person that what they are doing is a problem.

- “What you’re doing is a violation of our Code of Ethics and you need to stop.”
- “The City Charter prohibits what you’re doing, please stop doing it.”

If able, document it through an E-mail to them.

2

## Report The Behavior.

If the action or behavior is happening to a City employee, report it to the City Manager, preferably by official City E-mail.

If the action or behavior is happening to someone who is not an employee, follow the reporting guidelines in section 2-284 of the Code of Ethics.

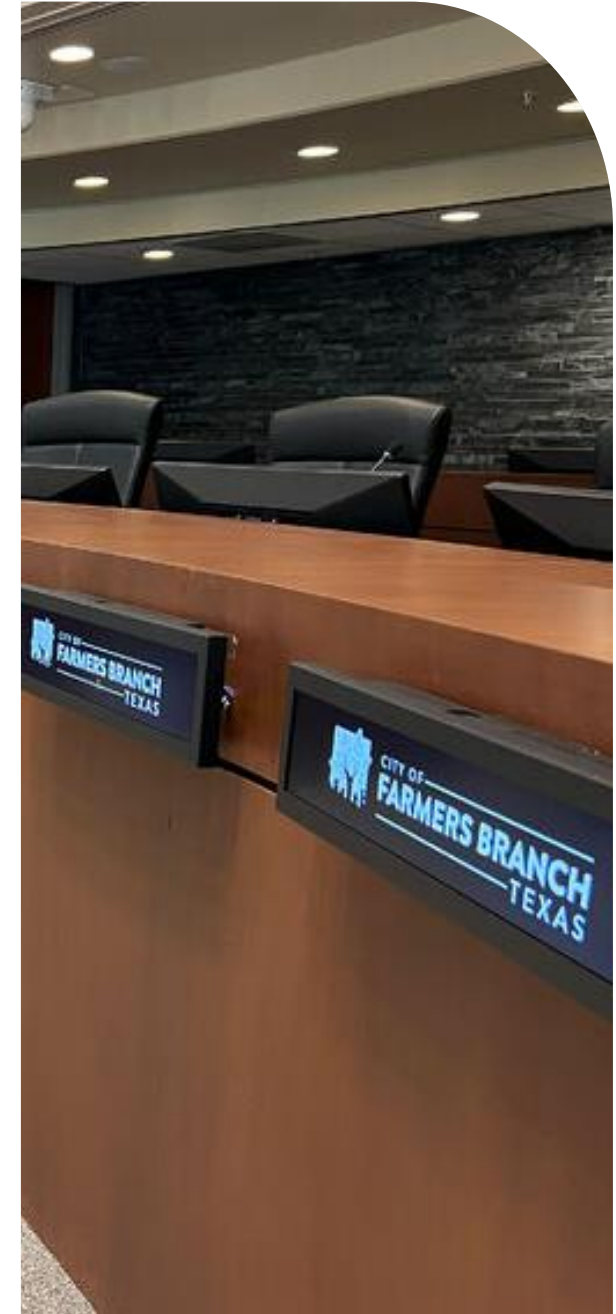
## Your Responsibility As An Elected Official

**Comments, behavior, speech or any decisions or actions you take should never be about someone's personal characteristics, including but not limited to:**

- Race/Ethnicity/National Origin/Sex
- Disability (physical, intellectual or neurological)
- Age/Generation
- Language, dialect or accent
- Marital/Child Status
- Religious Beliefs/Garb
- Weight, height or other physical attributes
- Any other personal characteristic specific to a person or a group of people.

**Additionally, you should never take any retaliatory, adverse or vindictive actions against someone who has filed a complaint or participated in any other protected action.**

**At all times, your behavior, speech, and actions should always be aligned with your Rules of Procedure, the Code of Ethics, and the City Charter.**





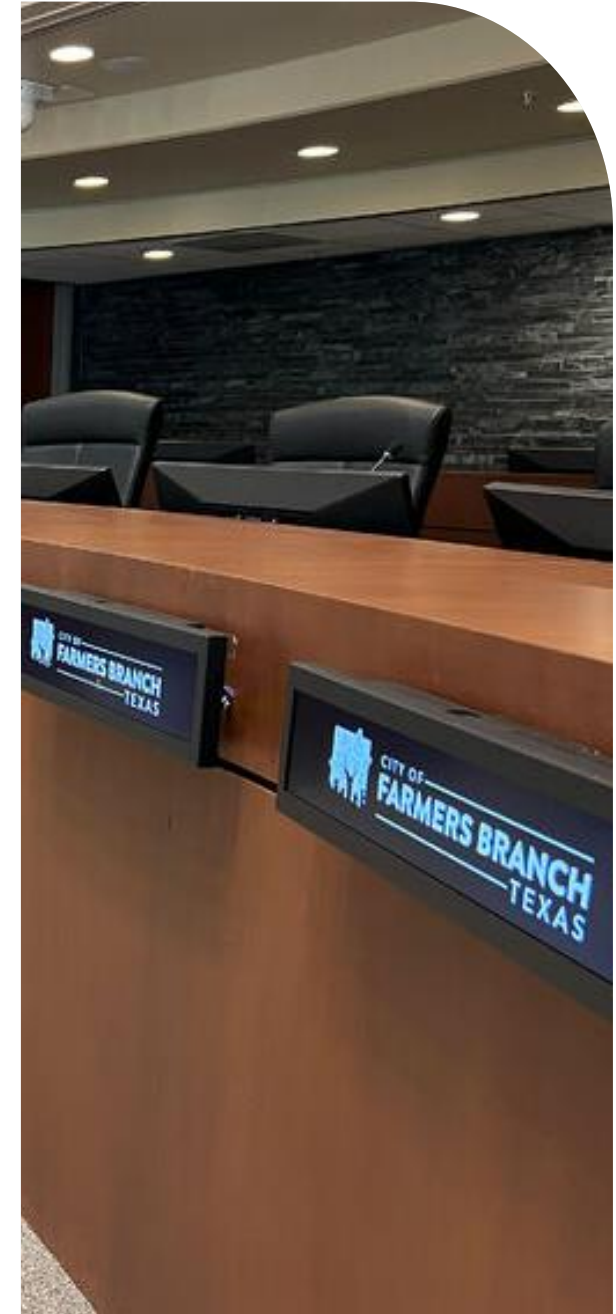
# Prevention is always better than reaction.

Being aware and responsible for own behavior is the most important thing we can do to limit liability and create a safe and productive work environment.

## Ask Yourself:

- Do I ever treat one type of person different than another, even if that isn't my intent?
- Do I ever say or do things that may be perceived as aggressive, hostile or inappropriate?
- Have I ever witnessed someone else breaking the rules, and didn't say anything?
- Have I ever put someone in a situation that they shouldn't have been in?
- Has anyone ever told me that my behavior was inappropriate?
- Do I respond to conflict in a way that helps to resolve it, or make it worse?
- Do I ever bend or flex the rules of the Charter or the Code of Ethics in the interest of getting things done?

**At all times, with staff, citizens, vendors, or a fellow member of Council, your behavior, speech, and actions can create trust, credibility or liability for the City.**



# Questions?

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