

Minutes

Village Board of Trustees

February 14th, 2019

A meeting of the Village of Horseheads Board of Trustees was held on the above date at 7:00 p.m.
Those present were:

<u>Village Board and Staff</u>	
Mayor Rob Maloney Trustee Bill Goodwin Trustee Mike Skroskznik Village Manager Nate Nagle <u>Absent</u> Trustee Pat Gross	Manager's Assistant Rachel Baer
<u>Others Present</u>	
Dave Padgett, W. Franklin St. Lloyd McWilliams, Westlake St. Brian Spencer, Breesport Rd. Laurie Spencer, Breesport Rd.	Mary Glanton, Thorne St. Christine Brown, Winding Way Marge Butler, Grand Central Ave.

Resolution by Trustee Skroskznik, seconded by Trustee Goodwin

BE IT RESOLVED, that the reading of the minutes of the Board of Trustees Meeting of February 7th, 2019 be dispensed with and the same stand approved as entered by the Clerk.

Roll Call Vote:

Mayor Maloney	Aye
Trustee Goodwin	Aye
Trustee Skroskznik	Aye

D&A: Draft Legislation - Chapter 40 - Receive and Set Public Hearing

Resolution by Trustee Goodwin, seconded by Trustee Skroskznik

BE IT RESOLVED, that a draft local law "To Amend Local Law #4 of 1975 and #9 of 1975 Establishing the Position of Village Manager in the Village of Horseheads, the Powers and Duties of Said Office, the Responsibilities of Other Departments and Department Heads and Residency Requirements of Officers of the Village" ("Chapter 40") is hereby received, and be it further

RESOLVED, that a public hearing regarding said draft law is hereby scheduled for Thursday, February 28, 2019 at 7:00 p.m.

Roll Call Vote:

Mayor Maloney Aye
Trustee Goodwin Aye
Trustee Skroskznik Aye

D&A: Sexual Harassment Policy

Resolution by Trustee Skroskznik, seconded by Trustee Goodwin

WHEREAS, the 2018-19 NYS Budget included multi-pronged language to combat sexual harassment in the workplace, and mandated that every employer throughout the state adopt as a minimum a model policy as well as a training program, and

WHEREAS, this Board adopted a stand-alone Sexual Harassment Prevention policy on October 25, 2018, and

WHEREAS, Roemer Wallens, the Village's labor relations counsel, provided a proposed policy prepared by that firm which enhances the NYS model policy, and

WHEREAS, Village administration has reviewed the Roemer enhanced policy and finds that there is merit in adopting same as a replacement to the Sexual Harassment Prevention Policy adopted on October 25, 2018.

NOW THEREFORE BE IT RESOLVED, that the Village of Horseheads Board of Trustees adopts the attached Sexual Harassment Prevention Policy and Harassment Complaint Form effective immediately; said policy replaces and supplants the Sexual Harassment Prevention Policy adopted on October 25, 2018.

AND BE IT FURTHER RESOLVED, that the Village shall use the Form to report incidents of alleged sexual harassment, and be it further

RESOLVED, that appropriate Village staff are authorized and directed to promptly deliver a copy of said Policy and Form to all current and future Village staff, electronically or in hard copy form, and be it further

RESOLVED, that a copy of this Policy shall be incorporated into the Village of Horseheads Employee Manual, and be it further

RESOLVED, that a copy of this Policy shall be posted on bulletin boards at the Village Hall, Fire Department, DPW Garage, Recreation/Pool Office, and Cemetery Office.

Roll Call Vote:

Mayor Maloney Aye
Trustee Goodwin Aye
Trustee Skroskznik Aye

D&A: Discriminatory Harassment Prevention Policy

Resolution by Trustee Skroskznik, seconded by Trustee Goodwin

WHEREAS, the Village of Horseheads adopted a Non-Discrimination and Harassment (including sexual harassment) in the Workplace Policy on October 25, 2018 which has since then been incorporated into the Village of Horseheads Employee Manual, and

WHEREAS, recently NYS enacted a Sexual Harassment Prevention policy which mandated a stand-alone sexual harassment prevention policy, and

WHEREAS, this Board adopted an enhanced Sexual Harassment Prevention Policy on this date, and

WHEREAS, such stand-alone policy necessitates material changes to the Non-Discrimination and Harassment (including sexual harassment) in the Workplace Policy of the Village, and

WHEREAS, Village administration has proposed the replacement of the above policy with the Village of Horseheads Discriminatory Harassment Prevention Policy and Complaint Procedure which have been reviewed by this Board.

NOW THEREFORE BE IT RESOLVED, the Village of Horseheads Board of Trustees hereby adopted the attached Discriminatory Harassment Prevention Policy and Complaint Procedure, a copy of which shall be placed on file with the Village Clerk, and be it further

RESOLVED, that the Village shall use the form to report incidents of alleged harassment, and be it further

RESOLVED, that appropriate Village staff are authorized and directed to promptly deliver a copy of said Policy to all current and future Village staff, electronically or in hard copy form, and be it further

RESOLVED, that a copy of this Policy shall be incorporated into the Village of Horseheads Employee Manual, and be it further

RESOLVED, that a copy of this Policy shall be posted on bulletin boards at the Village Hall, Fire Department, DPW Garage, Recreation/Pool Office, and Cemetery Office, and be it further

RESOLVED, that the Non-Discrimination Harassment (including sexual harassment) In the Workplace Policy of the Village adopted on October 25, 2018 is hereby rescinded and abolished.

Roll Call Vote:

Mayor Maloney	Aye
Trustee Goodwin	Aye
Trustee Skroskznik	Aye

Manager's Report

Manager Nagle reported on the following items:

- Meeting with Cameron Mfg. on new parking lot
- Meeting w/Jill Koski w/STEG re: Restore NY grant - 550K grant - STEG will be administrator - Village will have to have a Grant Disbursement Agmt. with ESD and also with each applicant, also need to do a SEQR. No cost to the Village - construction has to start by April of 2020
- Water main break this week at Watkins Rd. and Kinley
- Meeting on the GIS consortium
- Streets Policy fact sheet. City of Elmira and Town of Southport created a policy. County is working on one and so is Big Flats. Mtg. with Andy Avery about this. Creates policy looking at roads annually, and crosswalks, etc.

- Neighborhood Watch mtg. 2/19
- March 5th and 7th - Board meets with department heads on budgets.

Trustee Skroskznik suggested the Board meet on Tuesday, Feb. 26th to receive the draft budget, instead of Thursday 2/28, as he no longer has a conflict. Manager Nagle said he would check with the Clerk on whether she will be ready by then.

- Attending meeting on 3/27 sponsored by NYCOM regarding the possible legalization of marijuana.
- Attending Parks & Rec meeting in Saratoga on 3/28, but will be back in time for board mtg.
- E. Franklin St. property - I met with Town of Hhds - they are reluctant to do waiver on taxes, however interested in annexing that property to become part of the Village - and/or trading lands. Town complex is within the Village, swap that to become part of Town property, etc.. I called NYS yesterday. Farmland is still available.
- Hanover Square Circulation Study - we were advised that the County has a resolution indicating Village would pay \$4800 towards the cost. The Village adopted a resolution saying that there would be no pmt by the Village. Ours was before theirs. I need to investigate further. 5 people involved in the process are no longer in the process. This was in 2018.

Audience Participation

Dave Padgett, W. Franklin St. - the issue with the Moose Club parking is ten times worse now. Trucks and cars too drive right up on sidewalk. They park and drive wherever they want.

Manager Nagle - I checked it out Monday. We had a situation a few months ago with trucks. Then our Traffic Comm. sent a letter to the Moose Club regarding trucks. What I will be doing is talking to the Traffic Comm. again on this. Now it's not just a truck situation, it's a large event/parking issue. Don't know solution. Curbing? As far as plowing that might create an issue. For larger events have temp no parking/cones. Parking on both sides limits emergency vehicles. We asked them to move berm to widen driveway for deliveries. They have not done that yet.

BOT, Department Head Updates

Parks & Rec:

Nate - tomorrow night is last night for 3-9 basketball.
 Flower show bus trip 3/3. March 10th rain date
 St. Patricks parade on 3/16
 Sister visit 3/20-3/26

Trustee Goodwin

Great work on the mini-newsletter

Trustee Skroskznik

Street dept - lots of work with water main breaks - commend them

Neighborhood Watch mtg. 2/19

Motion by Trustee Goodwin, seconded by Trustee Skroskznik, that this Board along with the Village Manager move into an Executive Session to discuss the employment history of a particular person.

Roll Call Vote:

Mayor Maloney	Aye
Trustee Goodwin	Aye
Trustee Skroskznik	Aye

At 7:31pm the Board and Manager moved into an Executive Session, the minutes of which are attached hereto and made a part hereof.

At 7:53pm the Board reconvened back into its meeting of this date.

As there was nothing further to come before the Board the meeting was adjourned at 7:53 p.m.

NEXT MEETING: Thurs. 2/21 - 7pm

**Village Board of Trustees
EXECUTIVE SESSION
February 14, 2019**

An Executive Session of the Village of Horseheads Board of Trustees was held on the above date at 7:33pm in Village Hall. Present were Mayor Rob Maloney, Trustees Mike Skroskznik, and Bill Goodwin, and Village Mgr. Nate Nagle.

Discussion ensued regarding the employment history of a particular person. No action was taken.

At 7:53 a motion was made by Trustee Skroskznik, seconded by Trustee Goodwin, that the executive session be adjourned, and the Board reconvene back into its meeting of this date.

Roll Call Vote:

Mayor Maloney	Aye
Trustee Goodwin:	Aye
Trustee Skroskznik:	Aye

THE VILLAGE OF HORSEHEADS SEXUAL HARASSMENT PREVENTION POLICY

Adopted: 2/14/2019

Revised Date:

I. POLICY STATEMENT

The Village of Horseheads (“Village”) is committed to maintaining a workplace free from sexual harassment. Sexual harassment, which includes harassment on the basis of sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status, is a form of workplace discrimination. Sexual harassment is considered a serious form of employee misconduct. All employees, interns, volunteers, and non-employees are required to work in a manner that prevents sexual harassment in the workplace. Any employee, intern, volunteer, or non-employee in the workplace who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination. This Policy is one component of the Village’s commitment to a discrimination-free work environment.¹

Sexual harassment is against the law. All persons have a legal right to a workplace free from sexual harassment. This right can be enforced by filing a complaint internally with the Village, and/or with a government agency or in court under federal, state or local antidiscrimination laws.

Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Village to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Those covered by this Policy who engage in sexual harassment, and managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be subject to remedial action or discipline in accordance with law or an applicable Collective Bargaining Agreement.

This Policy also prohibits retaliation against individuals who report or complain of sexual harassment or participate in the investigation of a sexual harassment complaint, as further described herein.

Complaints of sexual harassment must be submitted to the Compliance Officer: The Village Manager. In the event that the Compliance Officer is the subject of the complaint, complaints must be made to the Mayor. The Village will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever the Village or its supervisory or managerial personnel receives a complaint about sexual harassment or retaliation, or otherwise knows of possible sexual harassment occurring. The Village will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment or retaliation is found to have occurred. All persons covered by this Policy, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

All employees, interns, volunteers, and non-employees are to report any harassment or behaviors that violate this Policy. The Village will provide a complaint form for the reporting of harassment and to file complaints. Managers and supervisors are **required** to report **any** complaint that they receive, or any

¹ Note that other forms of discrimination, as well as harassment based on protected classes or characteristics other than those covered under this policy are covered separately under The Village’s Discrimination and Discriminatory Harassment Policy.

harassment that they observe or become aware of in the workplace. Such reporting must be in written form to the Compliance Officer. Confronting the harasser is not required but is encouraged if the complainant feels it is possible and safe to do so. Anyone covered by this Policy has the right to file a good faith complaint without first communicating with the offender.

II. SCOPE

- A. Who is covered by this Policy?** This Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, volunteers, non-employees and persons conducting business with the Village².
- B. Who can be a target of sexual harassment?** Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees who provide services in the workplace. This Policy also protects volunteers of the Village.
- C. Who can be a sexual harasser:** A harasser can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor, or anyone with whom the person interacts while conducting their job duties.
- D. Where can sexual harassment occur?** Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees, interns and/or volunteers are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage can constitute or contribute to unlawful workplace harassment, even if occurring away from the workplace premises or not during work hours.

III. DEFINITIONS OF PROHIBITED CONDUCT

A. What is sexual harassment?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment;
- or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or

² Non-employees, as defined by law, includes contractors, vendors and consultants or those who are employees of the contractor, vendor or consultant.

physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, and/or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to offer job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Anyone subject to and/or covered by this Policy who feels harassed should complain so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

B. Examples of sexual harassment

Sexual harassment under the law and prohibited by this Policy may include, but is not limited to, the following prohibited conduct:

- Physical assaults of a sexual nature, such as:
 - Touching, pinching, patting, grabbing, brushing against another person's body or poking another person's body; rape, sexual battery, molestation or attempts to commit these assaults (which should be reported to local authorities as promptly as is possible).
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other employment benefits or detriments; subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping, which occurs when conduct or personality traits are considered inappropriate or treated negatively simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should look or act.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace or in a work-related gathering or setting.
- Hostile actions taken against an individual because of that individual's sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

C. Retaliation

In addition to sexual harassment, retaliation for opposing or complaining of sexual harassment or participating in investigations of sexual harassment is prohibited by law and prohibited under this Policy. No person covered by this Policy shall be subjected to such unlawful retaliation. Unlawful retaliation can be any adverse employment action, including being discharged, disciplined, discriminated against, or any action that would keep or discourage anyone covered by this Policy from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

The New York State Human Rights Law and this Policy protect any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under this Policy, the State Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to the Village (including a supervisor or manager) or by simply informing a supervisor or manager of harassment;
- reported that another employee, intern, volunteer or non-employee covered by this Policy has been sexually harassed; or
- encouraged a fellow employee, intern, volunteer and/or non-employee covered by this Policy to report harassment.

Employees, interns, volunteers, and non-employees who believe they have been subjected to retaliation should report this conduct in accordance with the same reporting procedures as are outlined below. These complaints of retaliation will be investigated in accordance with the same procedures utilized to investigate a complaint of sexual harassment. Individuals also may file complaints of retaliation with the federal or state enforcement agencies (EEOC or New York State Division of Human Rights.) Any individual found to have engaged in retaliation as defined in this Policy may be subject to disciplinary action up to and including termination, and/or other corrective or remedial action as necessary.

IV. REPORTING PROCEDURES AND RESPONSIBILITIES

A. Reporting Procedures

Preventing sexual harassment is everyone’s responsibility. The Village cannot prevent or remedy sexual harassment unless it knows about it. Any employee, intern, volunteer or non-employee who has been subjected to behavior that may constitute sexual harassment is strongly encouraged to report such behavior to the Compliance Officer set forth below. Anyone who witnesses or becomes aware of potential or perceived instances of sexual harassment should also report such behavior to the Compliance Officer.

- Compliance Officer: the Village Manager
- In the event that the Compliance Officer is the subject of the complaint, complaints are to be made to the Mayor

Although encouraged, note that neither this Policy nor state or federal law requires that an individual tell an alleged harasser to stop his/her actions. Failure to do so does not preclude the individual from filing a complaint of sexual harassment. Individuals should feel free to keep written records of any actions which may constitute sexual harassment, including time, date, location, names of others involved, witnesses (if any), and who said or did what to whom.

Reports of sexual harassment may be made verbally or in writing. If made verbally, the Complaint must be reduced to writing by the individual who it was reported to. The written report must be given to the Compliance Officer. A form for submission of a written complaint is attached to this Policy, and all employees, interns, volunteers, and non-employees conducting business in the workplace are encouraged to use this complaint form. Individuals who are reporting sexual harassment on behalf of other employees, interns, volunteers or non-employees should use the complaint form and note that it is on another person's behalf.

Employees, interns, volunteers or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

B. Supervisory Responsibilities

All managerial and supervisory personnel of the Village shall be responsible for enforcing this Policy and shall have particular responsibility for ensuring that the work environment under their supervision is free from sexual harassment and retaliation. In addition to being subject to discipline or other remedial action if they engaged in sexually harassing conduct themselves, **all supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report same in writing, to the Compliance Officer.** Supervisors and managers will be subject to discipline (or other remedial and appropriate action) for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline or other appropriate remedial action for engaging in retaliation.

C. The Village's Responsibilities

The Village will be responsible for ensuring that this Policy is provided to employees, interns, and volunteers, and that training on this Sexual Harassment Prevention Policy is conducted annually.

V. INVESTIGATION AND RESPONSE PROCEDURES

All complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be

prompt and thorough, commencing immediately and completed as soon as possible. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded appropriate due process to protect their rights to a fair and impartial investigation.

Any employee, volunteer, intern or non-employee may be required to cooperate as needed in an investigation of suspected sexual harassment. As further set forth herein, the Village will not tolerate retaliation against those who file complaints, support another's complaint, or participate in the investigation of a complaint.

All investigations will be conducted by the Compliance Officer or their designee. The nature of an investigation may vary on a case by case basis dependent upon the circumstances and extent of the allegations. Generally, investigations should be conducted by the Compliance Officer or their designee in accordance with the following steps:

- Upon receipt of complaint, the Compliance Officer or their designee will conduct an immediate review of the allegations, and take interim actions, as appropriate. If the complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form or other write up of the complaint based on the oral reporting.
- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create (at a minimum) written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - Recommendation(s) for the final resolution of the complaint, together with any recommendations for corrective or remedial actions to be taken.
- Keep the written documentation and associated documents in the employer's records.

Once the investigation is completed, the Compliance Officer or their designee will make a Final Determination as to whether the Policy has been violated.

The Compliance Officer or their designee shall promptly notify the complainant of the Final Determination, and also inform the complainant of their right to file a complaint or charge externally as outlined below.³

If a complaint of sexual harassment or retaliation is determined to be founded, the Village may take disciplinary and/or corrective action. The Compliance Officer will be responsible for overseeing the implementing of any corrective or remedial actions deemed necessary.

³ Where a complaint was filed regarding sexual harassment against an individual other than the person making the written complaint, the person against whom the harassment was directed will be treated as the complainant for purposes of this Policy.

VI. REIMBURSEMENT

Any employee who has been subject to a judgement of personal liability for intentional wrongdoing in connection with a claim for sexual harassment shall reimburse the Village for any monies it paid to a complainant for what was found to be the employee's proportionate share of said judgement. These reimbursements must be made within ninety (90) days from payment by the Village to the Complainant. A failure to reimburse will result in the sum being withheld directly from the employee's compensation or through enforcement of a money judgement.

VII. FURTHER CONFIDENTIALITY AND DISCLOSURE

In recognition of the personal nature of discrimination complaints and the emotional impact of alleged discrimination, the Village shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees and the workplace setting. For the protection of all individuals who make complaints or are accused of prohibited discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or the persons involved. To the extent complaints made under this Policy implicate criminal conduct, the Village may be required by law to contact and cooperate with the appropriate law enforcement authorities.

The terms of any settlement or other resolution are subject to disclosure UNLESS the Complainant seeks confidentiality. This request for confidentiality may be revoked within a certain time period in accordance with State law.

VIII. FALSE REPORTS

Reporting of a false complaint is a serious act. In the event it is found that an individual bringing the complaint has knowingly made false allegations, the Village may take appropriate remedial action and/or disciplinary action in accordance with the provisions of applicable collective bargaining agreement and/or state law.

IX. LEGAL PROTECTIONS AND EXTERNAL REMEDIES

Sexual harassment is not only prohibited by the Village but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Village, individuals may also choose to pursue legal remedies with the following governmental entities **at any time**.

A. New York State Division of Human Rights (DHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, Art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, interns and

non-employees. A complaint alleging violation of the Human Rights Law may be filed either with Division of Human Rights or in New York State Supreme Court. Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Village does not extend the time for filing a complaint with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to act to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

B. United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within **300 days** from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an individual believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov or via email at info@eeoc.gov

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

C. Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An

individual should contact the county, city or town in which they live to find out if such a law exists.

D. Contact the Local Police Department

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

X. SUPERSEDURE

The Village of Horseheads Sexual Harassment Prevention Policy adopted October 25, 2018 is superseded by the above policy.

**VILLAGE of HORSEHEADS HARASSMENT COMPLAINT FORM
(Submit to Compliance Officer)**

This form may be used to file a complaint of harassment which is a form of discrimination prohibited by federal law, the New York State Human Rights Law, and the Village of Horseheads Policy.

Filing this complaint form with the Village in no way deprives you of the right to file a complaint with the US Equal Employment Opportunity Commission, New York State Division of Human Rights, and/or the Federal/State courts.

(PLEASE PRINT OR TYPE)

1. Name _____

Phone Number _____

Residence _____

Mailing Address (if different from residence) _____

City _____ State _____ Zip Code _____

2. Department _____

3. Have you filed this charge with a Federal, State or local government agency?
YES/NO: _____ When _____ Where _____
(Month/Day/Year)

Have you instituted a suit or court action on this charge?
YES/NO: _____ When _____ Where _____
(Month/Day/Year)

(AN AFFIRMATIVE REPLY TO THIS QUESTION WILL IN NO WAY STOP A REVIEW OF YOUR COMPLAINT)

4. Alleged Discrimination Occurred on or about:

Month: _____ Day: _____ Year: _____ Time: _____

Is this alleged discrimination continuing: YES _____ NO _____?

Are you personally the subject of the alleged harassment? YES _____ NO _____?

If not, please state the name of the person(s) who are the subject of the alleged harassment:

Describe the alleged act of harassment. Use additional sheets if necessary.

5. Indicate the name(s) of the alleged harasser(s):

6. State the name(s) of any potential witness(es):

7. I swear or affirm that I have read the above related facts and that the statements are true and correct to the best of my knowledge, information and belief.

Date: _____
(Signature)

**VILLAGE OF HORSEHEADS DISCRIMINATORY HARASSMENT PREVENTION POLICY AND
COMPLAINT PROCEDURE**

Adopted: 2/14/2019

Revised Date

I. POLICY STATEMENT

It is the policy of the Village of Horseheads (“Village”) to provide and maintain a work environment which is free from unlawful discrimination based on sex (with or without sexual conduct, and including gender identity, gender expression or transgender status), race, color, religion, national origin, age, disability, genetic information or predisposing genetic characteristic, marital status, familial status, military status, domestic violence victim status, and any other class protected by law. Harassment based on these protected characteristics (collectively referred to as “discriminatory harassment”) is a form of unlawful discrimination and is prohibited in each and every work environment and each and every situation which directly impacts the work environment.

Sexual harassment is covered separately under the Village’s Sexual Harassment Prevention Policy. Refer to the Village’s Sexual Harassment Prevention Policy, available at the Village of Horseheads Employee Handbook.

The Village will take appropriate steps to prevent and correct unlawful discriminatory harassment and discrimination as defined by federal, state and local law (if applicable.) This includes federal laws such as Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act and the Genetic Information Non-Discrimination Act, as well as the New York State Human Rights Law.

The Village considers discrimination, discriminatory harassment and other conduct prohibited by this Policy to be a form of employee misconduct and considers this type of misconduct to be a serious offense which will not be tolerated. Allegations of discrimination and discriminatory harassment will be investigated thoroughly and if substantiated, will be met with appropriate corrective and/or disciplinary action commensurate with the seriousness of the offense(s), and in accordance with the parameters of applicable collective bargaining agreements and/or state law.

Retaliation against any individual making a discrimination or harassment complaint or assisting in the investigation of such a complaint is forbidden. Retaliation is a serious violation of this policy which may

result in disciplinary action.

II. SCOPE

- A. Who is covered by this Policy?** This policy applies to all applicants, employees, interns (paid or unpaid), volunteers, contractors, and other non-employees conducting business with the Village.
- B. What does this Policy prohibit?** This policy prohibits discriminatory harassment, discrimination and retaliation whether engaged in by fellow employees, by a supervisor or manager or by someone not directly connected to the Village (e.g., an outside vendor, consultant, other non-employee or citizen).
- C. Where can discrimination or discriminatory harassment occur?** Conduct prohibited by this Policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.
- D.** All information gathered during an investigation of a complaint will be handled in a confidential manner, to the extent possible.
- E.** This Policy does not preclude the filing of discrimination, discriminatory harassment or retaliation complaints with the New York State Division of Human Rights (DHR), the Federal Equal Employment Opportunity Commission (EEOC), or the pursuing of any other remedies as permitted by law.

III. DEFINITIONS OF PROHIBITED CONDUCT

A. Discrimination

Discrimination on the basis of any protected characteristic is prohibited. Discrimination includes any adverse employment action (termination, failure to hire, demotion, failure to promote, etc.) taken on the basis of sex (with or without sexual conduct, and including gender identity, gender expression or transgender status), race, color, religion, national origin, age, disability, genetic information or predisposing genetic characteristic, marital status, familial status, military status, domestic violence victim status, and any other class protected by law.

B. Discriminatory Harassment

Harassment on the basis of any protected characteristic is prohibited. Under this policy, prohibited discriminatory harassment is verbal or physical conduct that is offensive to or shows hostility or aversion toward an individual because of a protected class or characteristic, and that: (i) has the purpose or effect

of creating an intimidating, hostile or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities.

NOTE: Sexual harassment, including harassment on the basis of sex (including gender identity or transgender status) and sexual orientation is covered separately under the Village's Sexual Harassment Prevention Policy.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace (including through e-mail) of written or graphic material that denigrates or shows hostility or aversion toward an individual or group, based on an individual's protected class.

C. Retaliation

Retaliation against any individual for making a discriminatory or any harassment complaint or assisting in the investigation of such a complaint is prohibited by law and under this Policy. Unlawful retaliation can be any adverse employment action, including being discharged, disciplined, discriminated against, or any action that would keep or discourage anyone covered by this Policy from coming forward to make or support a claim of discrimination or discriminatory harassment. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

Any employee, intern, volunteer, and non-employee who believes they have been subjected to retaliation should report this conduct in accordance with the same reporting procedures as are outlined below. These complaints of retaliation will be investigated in accordance with the same procedures utilized and described below. Individuals also may file complaints of retaliation with the federal or state enforcement agencies (EEOC or New York State Division of Human Rights.)

Any individual found to have engaged in retaliation as defined in this Policy may be subject to disciplinary action up to and including termination, and/or other corrective or remedial action as necessary and permitted by an applicable collective bargaining agreement or state law.

IV. REPORTING PROCEDURES AND RESPONSIBILITIES

A. Reporting Procedures

Preventing harassment is everyone's responsibility. If an employee, intern, volunteer, or non-employee who witnesses or is subjected to a situation which he/she believes constitutes discriminatory harassment in violation of this Policy, the Village recommends that the person confront the harasser directly and advise the harasser that his/her behavior is not welcomed and will not be tolerated.

If an employee, intern, volunteer or non-employee who witnesses or is subjected to a situation which he/she believes constitutes discrimination or discriminatory harassment, he/she should file a complaint

with the Compliance Officer as set forth below. Anyone who witnesses or becomes aware of potential instances of discrimination or harassment should also report such behavior to the Compliance Officer.

- **Compliance Officer: the Village Manager**
- **In the event that the Compliance Officer is the subject of the complaint, complaints are to be made to the Mayor**

Although encouraged, note that neither this Policy nor state or federal law requires that an individual tell an alleged harasser to stop his/her actions. Failure to do so does not preclude the individual from filing a complaint of discriminatory harassment. Individuals should feel free to keep written records of any actions which may constitute harassment, including time, date, location, names of others involved, witnesses (if any), and who said or did what to whom.

Complaints may be made verbally or in writing. **If made verbally, the complaint must be reduced to writing by the individual to whom it was reported.** The written report must be given to the Compliance Officer. A form for submission of a written complaint is attached to this Policy, and all employees, interns, volunteers, and non-employees conducting business in the workplace are encouraged to use this complaint form. Individuals who are reporting discrimination or harassment on behalf of other employees, interns, volunteers or non-employees should use the complaint form and note that it is submitted on another person's behalf.

B. Employee Responsibilities

All employees, interns and volunteers are responsible for refraining from discrimination, discriminatory harassment or retaliation in the workplace. Anyone who witnesses discrimination, discriminatory harassment or retaliation may notify the person responsible that their behavior is inappropriate, and in any and all events, should notify the Compliance Officer.

C. Supervisory Responsibilities

All managerial and supervisory personnel of the Village shall be responsible for enforcing this Policy and shall have particular responsibility for ensuring that the work environment under their supervision is free from discrimination, discriminatory harassment, and retaliation. Failure of a manager or supervisor to comply with this responsibility may result in disciplinary action.

All managerial and supervisory personnel who receive complaints of, observe directly, or otherwise become aware of or suspect that discrimination, discriminatory harassment or retaliation is occurring, will be responsible for immediately forwarding such complaints, in writing, to the Compliance Officer.

Supervisors and managers will be subject to discipline (or other remedial or appropriate action) for failing

to report suspected discriminatory harassment or otherwise knowingly allowing the harassment to continue. Supervisors and managers will also be subjected to discipline (or other remedial or appropriate action) if found to have engaged in discrimination, discriminatory harassment, or retaliation.

D. Employer Responsibilities

The Village will conduct periodic training on the issues surrounding discrimination, discriminatory harassment, its effects and its appearances, and the role and responsibility of employees and managerial/supervisory personnel in preventing incidents of discrimination and harassment.

The Village will also distribute this Policy to all employees, interns and volunteers, and ensure that it is distributed to new employees as they are hired.

V. INVESTIGATION AND RESPONSE PROCEDURES

Discrimination and discriminatory harassment complaints will be investigated. The Compliance Officer OR INVESTIGATING OFFICIAL and/or their designee(s) will conduct a prompt and thorough investigation commencing immediately and completed as soon as possible. The investigation will be confidential to the greatest extent possible.

Any employee, volunteer, intern or non-employee may be required to cooperate as needed in an investigation of suspected discriminatory harassment. As further set forth herein, the Village will not tolerate retaliation against those who file complaints, support another's complaint, or participate in the investigation of a complaint.

The nature and extent of an investigation may vary on a case by case basis dependent upon the circumstances and extent of the allegations. Generally, investigations should be conducted in accordance with the following steps:

- Upon receipt of complaint, the Compliance Officer or their designee will conduct an immediate review of the allegations, and take interim actions, as appropriate. If the complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form or other write up of the complaint based on the oral reporting.
- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create (at a minimum) written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;

- A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - Recommendation(s) for the final resolution of the complaint, together with any recommendations for corrective or remedial actions to be taken.
- Keep the written documentation and associated documents in the employer's records.

Once the investigation is completed, the Compliance Officer or their designee will make a Final Determination as to whether the Policy has been violated.

The Compliance Officer OR person of office designated to make final determination or their designee shall promptly notify the complainant of the Final Determination, and also inform the complainant of their right to file a complaint or charge with the DHR or EEOC, or in an appropriate court.

If a complaint of discriminatory harassment, other harassment, or retaliation is determined to be founded, Village will take disciplinary and/or corrective action in accordance with law and/or an applicable collective bargaining agreement. The Compliance Officer will be responsible for overseeing the implementing of any corrective or remedial actions deemed necessary.

If disciplinary charges are filed against an employee on the grounds that Village has determined the employee is guilty of discrimination, discriminatory harassment or retaliation, the accused employee may exercise his/her rights through the disciplinary procedure provided for in his/her collective bargaining agreement, or state law, if applicable.

VI. FALSE REPORTS

Reporting of a false complaint is a serious act. In the event it is found that an individual bringing the complaint has knowingly made false allegations, the Village may take appropriate remedial action and/or disciplinary action in accordance with the provisions of applicable collective bargaining agreement and/or state law.

VII. SUPERSEDURE

The above policy supersedes and supplants the Village of Horseheads Non-Discrimination and Harassment in the

VILLAGE OF HORSEHEADS DISCRIMINATORY HARASSMENT PREVENTION COMPLAINT FORM
Submit to Compliance Officer

This form may be used to file a charge of discriminatory harassment which is a form of discrimination prohibited by federal law, the New York State Human Rights Law, and Village Policy.

Filing this complaint form with the Village in no way deprives you of the right to file a complaint with the US Equal Employment Opportunity Commission, New York State Division of Human Rights, and/or the Federal/State courts.

(PLEASE PRINT OR TYPE)

2. Name _____

Phone Number _____

Residence _____

Mailing Address (if different from residence) _____

City _____ State _____ Zip Code _____

2. Department _____

3. Have you filed this charge with a Federal, State or local government agency?

YES/NO: _____ When _____ Where _____
(Month/Day/Year)

Have you instituted a suit or court action on this charge?

YES/NO: _____ When _____ Where _____
(Month/Day/Year)

(AN AFFIRMATIVE REPLY TO THIS QUESTION WILL IN NO WAY STOP A REVIEW OF YOUR COMPLAINT)

4. Alleged Discrimination Occurred on or about:

Month: _____ Day: _____ Year: _____ Time: _____

Is this alleged discrimination continuing: YES _____ NO _____

Describe the alleged act of harassment. **Use additional sheets if necessary.**

5. Indicate the name(s) of the alleged harasser(s):

6. State the name(s) of any potential witness(es):

7. I swear or affirm that I have read the above related facts and that the statements are true and correct to the best of my knowledge, information and belief.

Date: _____

(Signature)

-INFORMATION PROVIDED HEREIN WILL BE CONFIDENTIALLY MAINTAINED-