

TOWN BOARD
Regular Meeting
November 14, 2018

A regular meeting of the Oneonta Town Board was held on November 14, 2018 with the following members present:

Councilman:	Randy Mowers
Councilwoman:	Patricia Riddell Kent
Councilman:	Brett Holleran
Councilwoman:	Patricia Jacob
Supervisor:	Robert Wood
Town Clerk:	Cheryl L. Shackelton

Others present: Rob Panasci, Town Attorney; James Hurtubise, Highway Supt.; Steve Kent; Arley Lau; Walter Schmitt; Michael Schmitt; Tom StJohn; Dave Rowley; Virginia Lee; WKT; and Whitney Bashaw, The Daily Star.

PUBLIC HEARING – Establish the Oneonta Fire Protection District

Motion was made by Councilman Holleran, seconded by Councilwoman Riddell Kent to open the public hearing.

VOTE – Ayes 5, Nays 0 Motion Carried

Supervisor Wood stated that the public hearing notice was sent to The Daily Star, the Town's website and posted on the Town Hall bulletin board on November 1st.

Virginia Lee thanked the Town Board for their work regarding the Town of Oneonta Fire District and what they had to go through.

Walt Schmitt, West Oneonta Fire Department Chief was present to ask why the West Oneonta Fire District doesn't get any of the revenue from the Town of Oneonta Fire District ambulance contract since the entire town (including West Oneonta) is taxed for it.

Supervisor Wood said the \$24,000 ambulance contract makes up for calls that are uncollectible and offered to discuss this further with Mr. Schmitt in his office. He stated that the town is in the process of solidifying a five-year contract with the City.

Motion was made by Councilwoman Jacob, seconded by Councilwoman Riddell Kent to close the public hearing.

VOTE – Ayes 5, Nays 0 Motion Carried

Motion was made by Councilwoman Jacob, seconded by Councilwoman Riddell Kent to approve the following resolution:

WHEREAS, the Town of Oneonta Fire District, a municipal entity governed by a Board of Fire Commissioners, has resolved to dissolve the Town of Oneonta Fire District effective November 2, 2018; and

WHEREAS, Article 17-A of the New York General Municipal Law, also called the "New N.Y. Government Reorganization and Citizen Empowerment Act," permits a Town Board to establish a fire protection district, by resolution of the board, after a public hearing is held on the proposal, and

WHEREAS, Town Board of the Town of Oneonta seeks to create the Oneonta Fire Protection District, such that all of the parcels, residents, and property owners in the Town of Oneonta which are presently served by the Town of Oneonta Fire District continue to be furnished with

fire protection services after the dissolution of the Town of Oneonta Fire District, with no change to the level or quality of the fire protection services offered, and

WHEREAS, the Town has identified approximately 2049 parcels currently contained within the Town of Oneonta Fire District (depicted on the attached map and identified individually in the attached list) which would be impacted by the proposed change, and

WHEREAS, the Town held a public hearing on the proposed establishment of the Oneonta Fire Protection District on November 14, 2018 at 7 p.m. at the Oneonta Town Hall, Oneonta, New York, and

WHEREAS, the Town Board found it to be in the public interest to create and establish the Oneonta Fire Protection District;

WHEREAS, the boundaries of the Oneonta Fire Protection District shall be the same boundaries as the boundaries of the Town of Oneonta Fire District prior to its dissolution;

BE IT THEREFORE RESOLVED THAT the Town Board hereby establishes the creation of the Oneonta Fire Protection District, finds that the proposed establishment is in the best interests of the Town, and approves the establishment of the Oneonta Fire Protection District, and

BE IT FURTHER RESOLVED THAT the Town Board directs the Town Supervisor, Town Clerk, Town Attorney, and relevant staff to take those steps necessary to effectuate the establishment with the State and with Otsego County.

VOTE – Ayes 5, Nays 0 Motion Carried

PUBLIC HEARING – Local Law to Override the Tax Levy Limit

Motion was made by Mowers, seconded by Jacob to open the public hearing.

VOTE – Ayes 5, Nays 0 Motion Carried

Supervisor Wood stated that the town plans to override the Governor's tax cap limit due to the proposed construction of a new highway barn. The increase for 2019 would be \$.14 per thousand. He added that the board has been diligent in controlling expenses and keep this project as reasonable as possible. The current highway garage has many issues as far as meeting safety standards and has long been needed. When asked about geo-thermal heating and possible grants, Supervisor Wood said the town would be looking into these.

Motion was made by Councilwoman Jacob, seconded by Councilwoman Mowers to close the public hearing.

VOTE – Ayes 5, Nays 0 Motion Carried

Motion was made by Mowers, seconded by Jacob to approve Local Law #2 of 2018 entitled "Local Law Permitting the Town of Oneonta to Override the Tax Levy Limit as Defined Under Section 3-c of the General Municipal Law", as follows:

WHEREAS, General Municipal Law Section 3-c outlines the limits of a permissible tax levy; and

WHEREAS, the Town has prepared a proposed Local Law to override the tax levy limit; and

WHEREAS, the Town Board has reviewed and considered the proposed Local Law; and

WHEREAS, the Town Board adopted a resolution on November 1, 2018 scheduling a public hearing on the proposed Law for November 14, 2018; and

WHEREAS, the public hearing on the Proposed Local Law No. 2 was held on November 14, 2018 at the Town Hall; and

WHEREAS, the Town Board reviewed and considered all public comments received on the proposed Law; and

WHEREAS, the proposed Law was on file for inspection at the Town Clerk's office prior to the hearing and during the public hearing process and was also available on the Town's web site; and

NOW THEREFORE, BE IT RESOLVED that Local Law No. 2 of 2018 entitled "A Local Law Permitting the Town of Oneonta to Override the Tax Levy Limit as Defined Under Section 3-c of the General Municipal Law", is hereby adopted and the Town Clerk and Town Attorney are hereby directed to file said Local law with the Office of the Secretary of State in accordance with State Law.

Be it hereby enacted by the Town Board of the Town of Oneonta, Otsego County, New York, as follows:

SECTION I: INTENT AND PURPOSE

It is the intent of this local law to allow the Town of Oneonta to adopt a budget for the fiscal year commencing 2018 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

SECTION II: AUTHORITY

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

SECTION III: TAX LEVY LIMIT OVERRIDE

The Town Board of the Town of Oneonta, County of Otsego is hereby authorized to adopt a budget for the fiscal year 2018 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law, §3-c.

SECTION IV: VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Oneonta hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION V: EFFECTIVE DATE

This Local Law shall take effect immediately upon the filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.
VOTE – Ayes 5, Nays 0 Motion Carried

2019 BUDGET

A public hearing was held on November 1, 2018, with Town Board action being tabled.
Motion was made by Holleran seconded by Jacob to adopt the 2019 Budget as presented.

VOTE – Ayes 4, Nays 1 (Riddell Kent) Motion Carried

Councilwoman Riddell Kent stated that she supports the need for a new highway garage, but doesn't agree with other things in the budget.

COMMITTEE REPORTS

Highway/Water & Sewer - Councilwoman Riddell Kent gave the following report and recommendations:

Sewer/Water Delinquents

Motion was made by Mowers, seconded Jacob to certify that the following town sewer and water accounts are delinquent for the year 2018, and submit same to the Otsego County Treasurer for collection:

West End Sewer District	\$33,397.10
West Street Sewer District	\$38.50
Southside Sewer District	\$45,623.33
Woodland Water District	\$9792.14

TOTAL: \$88,851.07

VOTE – Ayes 5, Nays 0 Motion Carried

Westgate Project Change Order #3 – Sidewalks \$5500

Motion was made by Riddell Kent, seconded by Holleran to approve the Westgate Project change order for the addition of curb to sidewalk construction at a cost of \$5500.00.

VOTE – Ayes 5, Nays 0 Motion Carried

Westgate Project payment –

Motion was made by Riddell Kent, seconded by Holleran to approve Delaware Bulldozing Corporation's application for payment #2 in the amount of \$197,799.50 (keeping the retainage of \$10,410.50).

Discussion: Councilwoman Riddell Kent stated that she would like to work on phase 2 of the drainage issues in the West End. She said Highway Supt. Hurtubise applied for money under the Bridge New York for 4 new box culverts, but the proposal did not get funded. They will continue to work on funding for this project.

VOTE – Ayes 5, Nays 0 Motion Carried

Surplus Equipment – Motion was made by Holleran, seconded by Riddell Kent to accept bids on surplus equipment as follows:

2007 Dodge Durango- \$3050.00

2008 Ford F350 Pickup with plow - \$12,600

VOTE – Ayes 5, Nays 0 Motion Carried

Public Safety – Supervisor Wood reported as follows:

Unsafe properties –

14 Jackson Ave. – Supervisor Wood said he will continue to work with the County Treasurer in taking over this property and ultimately turning over to the land bank.

238 West St – The interested party has been given more time to rectify problems with the property; letters were sent recently to all siblings in the family.

115 Valley St. – Councilwoman Riddell Kent will try to connect with the owners of this property.

Facilities, Technology, Parks - Councilman Holleran had nothing to report.

Human Resources and Public Benefit – Councilwoman Jacob reported as follows: Currently the town has a ‘Smoke-Free Policy’. However, the new ‘Tobacco-Free Policy’ covers all the new manufactured products containing tobacco or nicotine (such as ‘vape’ and ‘chew’) that are currently on the market. In addition, Advancing Tobacco-Free Communities’ will provide signage for the town’s parks. Supervisor Wood added that this policy will allow the Town Constable to enforce the issue.

Tobacco-Free Policy -

Motion was made by Jacob, seconded by Holleran to adopt the following ‘Tobacco-Free Policy’:

Application

The use of tobacco products affects everyone who spends time at town parks, pavilions, recreation areas, playgrounds, trails, boat launches and events.

Statement of Purpose

Tobacco product use is unhealthy and detrimental to general health and wellbeing. Tobacco products, once consumed in public spaces and facilities, are often discarded on the ground, posing a litter problem and the risk of ingestion by toddlers, pets and/or wildlife. Such behavior is in opposition to the efforts of children, youth and adults engaging in, or watching recreational and cultural activities.

Policy Statement

The Town of Oneonta is committed to providing a high quality of life for everyone who makes use of its outdoor facilities and patronizes its outdoor events. Therefore, the use of any tobacco products is not allowed on any present and future parks, pavilions, recreation areas, playgrounds, trails, boat launches and events under the jurisdiction of the Town of Oneonta including, but not limited to Fortin Park, Otego Creek Access Site, Lawn Park Pool, West Oneonta Playground and Oneonta Susquehanna Greenway. Tobacco products are defined as any manufactured product containing tobacco or nicotine including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, dissolvable tobacco products and electronic nicotine devices (ENDS) like electronic cigarettes/vape pens.

Compliance and Responsibility

The emphasis on enforcing the tobacco-free policy is through peer-to-peer voluntary compliance. The Town of Oneonta will maintain tobacco-free signage and conduct other efforts to promote awareness of this policy. Town personnel including staff, board members, and other designees will enforce this policy directly with visitors to outdoor areas of property owned, leased and/or operated by the Town of Oneonta.

VOTE – Ayes 5, Nays 0 Motion Carried

New Sexual Harassment Policy –

Motion was made by Jacob, seconded by Riddell Kent to adopt the new ‘Sexual Harassment Prevention Policy’ as follows:

WHEREAS, the New York State Department of Labor (“DOL”) finalized sexual harassment prevention guidance in response to a New York State DOL law (Section 201-G, Prevention of sexual harassment), which was part of the 2018-19 State Budget, requiring all employers to adopt, post and distribute to all employees by October 9, 2018, a sexual harassment prevention policy; and

WHEREAS, the law also requires that all employees complete training that meets the minimum standards, no later than October 9, 2019, and annually thereafter; and

WHEREAS, the Town of Oneonta is committed to a policy that sexual harassment constitutes illegal behavior, is prohibited in any and every workplace in which Town employees are required to conduct business, and is consistent with guidance issued by the DOL; and

WHEREAS, the Town shall comply with New York State DOL law, Section 201-G, Prevention of sexual harassment; and

NOW THEREFORE BE IT RESOLVED, that the Town of Oneonta shall adopt the attached Town of Oneonta Sexual Harassment Prevention Policy, prepared with assistance of the DOL sexual harassment prevention guidance and model policy; and

NOW THEREFORE BE IT RESOLVED further, that the Clerk of the Town of Oneonta shall distribute to all supervisors, managers, and/or to employees directly the attached Town of Oneonta Town of Oneonta Sexual Harassment Prevention Policy; and

NOW THEREFORE BE IT RESOLVED further, that the Clerk of the Town of Oneonta shall make the Town of Oneonta Sexual Harassment Prevention Policy publicly available, and post in the Town offices and on the Town’s website (as attached).

Discussion: Supervisor Wood stated that the town has up to a year to complete training that meets the minimum standards.

VOTE – Ayes 5, Nays 0 Motion Carried

Legislative – Councilwoman Jacob is continuing to work on an amendment to the zoning law that would require a public hearing for certain site plan reviews.

ATTORNEY

Attorney Panasci and the Board discussed negotiations with Jodie Zakrevsky of the IDA regarding CDBG money for Custom Electronics. The board agreed that they would like to see the proposal move forward, but that the town needs to be adequately protected in the event of an issue with the successful implementation of the grant.

CODE ENFORCEMENT – Nothing to report

MISCELLANEOUS

Planning/Zoning School – Motion was made by Holleran, seconded by Jacob to authorize Breck Tarbell to attend the 2018 Planning and Zoning School in Schoharie, NY on November 10, 2018.

VOTE – Ayes 5, Nays 0 Motion Carried

APPROVAL OF MINUTES

Motion was made by Riddell Kent, seconded by Jacob to approve the October 10, 2018 and November 1, 2018 minutes.

VOTE – Ayes 5, Nays 0

Motion Carried

BILLS

Motion was made by Mowers, seconded by Jacob to approve the following bills and budget modifications:

Bills:

General	\$352,566.17	769,775-777,785,786,788-790,792-807,814,817-819,822-826,846,849-851,854-856
Highway	\$62,778.93	777,805,825-830,832-845,847,848,851
Street Lights	\$4,021.89	793,816,819
Highway Gar.	\$14,703.80	790
Trust & Agency	\$5,998.72	771-774,781-783,787,853,858,859
DISTRICTS:		
WESD	\$4,687.17	770,778,780,784,808,810,811,815,820,852,857
WSSD	\$1,330.44	770,778,780,808,810,811,815,852,857
SSD	\$2,638.50	770,778-780,784,808,810,811,815,820,857
WWD	\$3,308.48	770,778,780,784,808-812,815,820,821,831,857
PWD	\$1,020.37	770,778,780,808,810,811,813,821,857
SS Water		
Dist.	\$22,448.55	791

Budget Modifications:

General Account

11102.01	3510
12204.01.411	13
12204.01.442	-13
13554.01.018	-77
13554.01.411	77
16804.01.419	-1116
16804.01.442	133
16804.01.470	983
19904.01	-840
31202.01	840
50104.01.441	-79
50104.01.472	79
71801.01.001	488
71801.01.043	878
71804.01	-1366
80204.01	10
80204.01.471	-10

Highway Account

51104.03.415	250
51104.03.417	6570
51104.03.444	-7536
51104.03.445	716
51104.03.461	-1103
51104.03.462	1103
51304.03.418	318
51304.03.464	-318

3021.01 3510
VOTE – Ayes 5, Nays 0 Motion Carried

The meeting was adjourned at 7:45 pm.

Respectfully submitted,

Cheryl L. Shackelton
Town Clerk

TOWN OF ONEONTA SEXUAL HARASSMENT PREVENTION POLICY

(prepared upon the NYS Department of Labor
sexual harassment prevention guidance and model policy)

Introduction

The Town of Oneonta (the “Town”) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Town’s commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the Town. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. The Town’s policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the Town. In the remainder of this document, the term “employees” refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Town will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Town who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, the Town Clerk. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Town to liability for harm to targets of sexual harassment. Harassers may also be individually

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

5. The Town will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The Town will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Town will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Town Attorney.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

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, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

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 reporting 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 includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. 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, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade 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.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee’s body or poking another employee’s body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- 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 job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person’s sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should act or look.
- 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.
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity and the status of being transgender, 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.

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, including independent contractors, and those employed by companies contracting to provide services in the workplace.

Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker 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 (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects 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 the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Town cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, *Town Supervisor*, the Town Clerk, *personnel officer* or the Town Attorney. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, *Town Supervisor*, the Town Clerk, *personnel officer* or the Town Attorney.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns 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.

Supervisory Responsibilities

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 such suspected sexual harassment to the Town Attorney.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about 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, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Town will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Town Attorney will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.

- If documents, emails or phone records are relevant to the investigation, 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 a 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
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

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

Aside from the internal process of the Town, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) 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 sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Town does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

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

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

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.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (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. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work 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 (TTY: 1-800-669-6820), 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.

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. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

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