

Local Law No. 2 of 2024, entitled:

“ Local Law Updating Sexual Harassment Policy”

BE IT ENACTED BY, the Town Board of the Town of Clinton as follows:

1. Chapter 85 (Sexual Harassment Policy) of the Town Code is hereby amended by repealing the existing Chapter 85 in its entirety and replacing it with a new Chapter 85, which shall read as follows:

Chapter 85. Sexual Harassment Policy.

§ 85-1 Title.

This Chapter shall be known as the Town of Clinton “Sexual Harassment Policy” and shall be referred to in this Chapter as the “Policy.”

§ 85-2 Purpose and Goals of Policy.

- A. The Town of Clinton (hereinafter the “Town”) is committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an employee to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the Town recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, predisposing genetic characteristics, familial status, marital status, criminal history, or status as a victim of domestic violence.
- B. The purpose of this Policy is to teach employees to recognize discrimination, including discrimination due to an individual’s intersecting identities, and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This Policy is one component of the Town’s commitment to a discrimination-free work environment.
- C. Sexual harassment and discrimination are against the law. After reading this Policy, employees will understand their right to a workplace free from harassment. Employees will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The Policy will also explain the investigatory process into any claims of harassment.

§ 85-3 Policy.

- A. The Policy applies to all employees, applicants for employment, and interns, whether paid or unpaid. The Policy also applies to additional covered individuals and to anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in our workplace. These individuals 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 through a contract with the Town. For the remainder of this Policy, we will use the term “covered individual” to refer to individuals who are not direct employees of the Town.
- B. Sexual harassment is unacceptable. Any employee or covered individual who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for employees. In New York harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting harassment because they do not believe it is bad enough, or because they do not want to see a colleague fired because of what they perceive as less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may also lead to suspension or termination when appropriate.
- C. Retaliation is prohibited. Any employee or covered individual who reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. Employees should not fear reporting sexual harassment if they believe it has occurred. As long as a person reasonably believes that they have witnessed or experienced such behavior, this individual is protected from retaliation. Any employee of the Town who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All employees and covered individuals working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or Human Resources. All employees and covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in §85-14.
- D. Discrimination of any kind (including sexual harassment) is a violation of our policies, is unlawful, and may subject the Town to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Employees at every level who engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for misconduct.
- E. The Town will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows about possible discrimination or sexual harassment occurring. The Town will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, the Town will act as required. In addition to any required discipline, the Town will also take steps to ensure a safe work environment for the employee who experienced the discrimination

or harassment. All employees, including managers and supervisors, are required to cooperate with any internal investigation of discrimination or sexual harassment.

- F. All employees and covered individuals are encouraged to report any harassment or behavior that violate this Policy. All employees will have access to a complaint form to report harassment and file complaints, but use of this form is not required (see Appendix A). For anyone who would rather make a complaint verbally or by email, these complaints will be treated with equal priority. An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency. 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 Supervisor or their designee.
- G. This Policy applies to all employees and covered individuals. This Policy must be provided to all employees in person or digitally through email upon hiring and will be posted prominently in all work locations.

§85-4 Sexual Harassment.

- A. Sexual harassment is a form of gender-based discrimination that 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 is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination, including gender role stereotyping and treating employees differently because of their gender.
- B. Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on gender stereotypes, gender expression, and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary.
 - i. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female.
 - ii. A transgender person is someone whose gender is different than the sex they were assigned at birth. Some individuals may identify as transgender but not all do. Respecting a person's gender identity is a necessary first step in establishing a safe workplace.
 - iii. A non-binary person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary.
- C. Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal; it can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to

those experiencing it and there is no single boundary between petty slights and harassing behavior. However, the New York State Human Rights Law specifies that whether harassing conduct is considered petty or trivial, it is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of this Policy. The intent of the behavior (for example, making a joke) does not neutralize a harassment claim. Not intending to harass is not a defense; the impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct that is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature, when:

- i. The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment.
- ii. Employment depends implicitly or explicitly on accepting such unwelcome behavior.
- iii. Decisions regarding an individual's employment are based on an individual's acceptance or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, and salary and promotion decisions.

D. There are two main types of sexual harassment:

- i. Behavior that contributes to a hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation, or physical violence that are of a sexual nature or that are directed at an individual because of the individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, or sexually explicit derogatory discriminatory statements, that an employee finds offensive or objectionable, cause an employee discomfort or humiliation, or interfere with the employee's job performance.
- ii. 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.

E. Any employee or covered individual who feels harassed is encouraged to report the behavior so that any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this Policy.

§85-5 Examples of Sexual Harassment.

A. The following describes some of the types of acts that may be unlawful sexual harassment and that are violations of this Policy. This list is just a sample of behaviors and should not be considered exhaustive. Employees who believe they have experienced sexual harassment, even if the specific behavior does not appear on this list, should feel encouraged to report it.

- i. Physical acts of a sexual nature, such as:
 - a. Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body, or poking another employee's body.
 - b. Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this Policy (please contact local law enforcement if you wish to pursue criminal charges).
- ii. Unwanted sexual comments, advances, or propositions, such as:
 - a. Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits.
- iii. Subtle or obvious pressure for unwelcome sexual activities.
- iv. Repeated requests for dates or romantic gestures, including gift giving.
- v. Sexually oriented gestures, noises, remarks, or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history that create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
- vi. Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look.
 - a. Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity.
- vii. Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- viii. Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - a. Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes posting sexual displays on workplace computers or cell phones and sharing them while in the workplace.
 - b. This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- ix. Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
 - a. Interfering with, destroying, or damaging a person's workstation, tools, or equipment, or otherwise interfering with the individual's ability to perform their job.
 - b. Sabotaging an individual's work.

- c. Bullying, yelling, or name calling.
- d. Intentional misuse of an individual's preferred pronouns.
- e. Creating different expectations for individuals based on their perceived identities, such as:
 - 1. Dress codes that place more emphasis on women's attire.
 - 2. Leaving parents or caregivers out of meetings.

§ 85-6 Targets of Sexual Harassment.

- A. Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York State law protects employees and all covered individuals described earlier in the Policy. Harassers can be anyone in the workplace; a supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be a harasser, including an independent contractor, contract worker, vendor, client, customer, patient, constituent, or visitor.
- B. Sexual harassment does not happen in a vacuum and discrimination experienced by an employee can be impacted by biases and identities beyond an individual's gender. For example:
 - i. Placing different demands or expectations on black women employees than white women employees can be both racial and gender discrimination.
 - ii. An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment.
 - iii. Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behavior in the workplace.
- C. Individuals bring personal history with them to the workplace that might impact how they interact with certain behaviors. It is especially important for all employees to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

§85-7 Locations.

- A. Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer- or industry-sponsored events or parties. Phone calls, texts, emails, and social media usage by employees or covered individuals can constitute unlawful workplace harassment—even if they occur away from the workplace premises, on personal devices, or during non-work hours.
- B. Sexual harassment can occur when employees are working remotely from home as well. Any behavior outlined above that leaves an employee feeling uncomfortable, humiliated, or unable to meet their job requirements constitutes harassment—even if the employee or covered individual is at home when the

harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

§85-8 Retaliation Prohibited.

- A. Retaliation is any action by an employer or supervisor who punishes an individual upon learning of a harassment claim, who seeks to discourage a worker or covered individual from making a formal complaint or supporting a sexual harassment or discrimination claim, or who punishes those who have come forward. These actions need not be job related or occur in the workplace to constitute unlawful retaliation. Retaliation is unlawful and a violation of this Policy. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this Policy. Examples of retaliation may include, but are not limited to:
- i. Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts.
 - ii. Publicly releasing personnel files.
 - iii. Refusing to provide a reference or providing an unwarranted negative reference.
 - iv. Labeling employees as “difficult” and excluding them from projects to avoid “drama.”
 - v. Undermining an individual’s immigration status.
 - vi. Reducing work responsibilities, overlooking an individual for a promotion, or moving an individual’s desk to a less desirable office location.
- B. Retaliation is unlawful under Federal and New York State Law and is also a violation of this Policy. The New York State Human Rights Law protects any individual who engages in “protected activity.” Protected activity occurs when a person has:
- i. Made a complaint of sexual harassment or discrimination, either internally or with any government agency.
 - ii. Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law.
 - iii. Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected harassment.
 - iv. Reported that another employee has been sexually harassed or discriminated against.
 - v. Encouraged a fellow employee to report harassment.
- C. Even if the alleged harassment does not 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.

§85-9 Reporting Sexual Harassment.

- A. Everyone must work toward preventing sexual harassment. Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Any employee or covered individual is encouraged to report harassing or discriminatory behavior to a supervisor or manager, or to the Town Supervisor or their designee. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor or manager, or the Town Supervisor or their designee.
- B. Reports of sexual harassment may be made verbally or in writing. A complaint form is attached to this Policy if an employee would like to use it, but the complaint form is not required (see Appendix A). Employees who are reporting sexual harassment on behalf of other employees may use the complaint form and should note that it is on another employee's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another employee is also acceptable.
- C. Employees and covered individuals who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the §85-14.

§85-10 Responsibilities of Supervisors and Managers.

- A. Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring are required to report such suspected sexual harassment to the Town Supervisor or designee. Managers and supervisors should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act.
- B. Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it. Supervisors and managers will also be subject to discipline for engaging in any retaliation.
- C. While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment and discrimination can be intimidating, uncomfortable, and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

§85-11 Bystander Intervention.

- A. Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager who is a bystander to harassment is required to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

- i. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior.
- ii. A bystander who feels unsafe interrupting can ask a third party to help intervene in the harassment.
- iii. A bystander can record or take notes on the harassment incident to benefit a future investigation.
- iv. A bystander might check in after the incident with the person who has been harassed, see how the person is feeling, and let them know that the behavior was not okay.
- v. If a bystander feels safe, they can confront the harasser and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

B. Though not exhaustive and dependent on the circumstances, the above guidelines can serve as a brief guide of how to react when witnessing harassment in the workplace. Any employee who witnesses harassment as a bystander is encouraged to report it; a supervisor or manager who is a bystander to harassment is required to report it.

§85-12 Complaints and Investigation.

- A. All complaints or information about sexual harassment will be investigated, regardless of whether that information was reported in verbal or written form. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt, thorough, and started and completed as soon as possible. The investigation will be kept confidential to the extent possible. All individuals involved, including those making a harassment claim, witnesses, and alleged harassers, deserve a fair and impartial investigation.
- B. Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Town will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint, or participate in harassment investigations.
- C. The Town recognizes that participating in a harassment investigation can be uncomfortable and has the potential to re-traumatize an employee. Those receiving claims and leading investigations should handle complaints and questions with sensitivity toward those participating.
- D. Investigations into allegations of sexual harassment shall be conducted as follows:
 - i. Upon receipt of complaint, the Town Supervisor or an individual designated by the Town Supervisor will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the alleged harasser to refrain from communications with the individual who reported the complaint), as appropriate. If the complaint is oral, the Town Supervisor or the manager or supervisor receiving the complaint must encourage the individual to complete the Complaint Form in writing. If the employee refuses, the Town Supervisor or the manager or supervisor receiving the complaint will prepare a Complaint Form based on the oral reporting.

ii. The Town Supervisor or the individual designated by the Town Supervisor shall obtain and preserve any evidence relevant to the allegations including documents, emails, phone record, and text messages and shall interview all parties and relevant witnesses.

iii. At the conclusion of the investigation, the Town Supervisor or the individual designated by the Town Supervisor shall create a written investigative report detailing the following:

- a. A list of all documents reviewed, along with a detailed summary of relevant documents.
- b. A list of names of those interviewed, along with a detailed summary of their statements.
- c. A timeline of events.
- d. A summary of prior relevant incidents, reported or unreported.
- e. The final resolution of the complaint, together with any corrective action(s).

E. The investigative report shall be filed with the Town Clerk and kept in a confidential location. The Town Clerk shall serve a copy of both the complaint and the investigative report upon the accused employee, the individual who reported the complaint and all persons the Town Clerk deems necessary parties within 15 days of filing the investigative report or a reasonable time thereafter. The individual who reported the complaint shall also be informed of their right to file a complaint or charge externally.

F. Adjudication.

i. All complaints of sexual harassment shall be adjudicated by a Town Justice, or a hearing officer designated by a Town Justice in the event that no Town Justice is able to discharge that duty. The hearing officer shall not be the Town Supervisor, Town Clerk, or a member of the Town Board.

ii. Upon receipt of the completed investigative report, the Town Justice or the individual designated by the Town Justice shall conduct an administrative hearing at which the investigative report shall be presented and considered. The Town Supervisor or the Town Supervisor's designee, who may include the Town Attorney or the Attorney to the Town, shall present the investigative report and otherwise prosecute the allegations of sexual harassment in the administrative hearing. Hearings shall be conducted before a court reporter empowered to take testimony under oath. The court reporter shall require all witnesses to provide testimony under oath and shall prepare a verbatim transcription/recording of the proceedings that shall serve as the official record of the hearing.

iii. The accused employee shall be notified in writing at least fifteen (15) days before the hearing of the complaint and the underlying allegations. The accused employee may request one postponement of the hearing upon receipt of the notice in order to obtain legal counsel; however, the delay occasioned by such request shall not exceed thirty (30) days from the date of receipt of the notice by the accused employee. The accused employee may waive his or her right to a hearing upon written notice to the Town Justice or hearing officer.

iv. The accused employee shall be entitled to attend the hearing and testify in their own behalf and shall be entitled to confront and cross-examine the individual who filed the complaint and all other

witnesses against them. In the event that the accused employee fails to answer the complaint and/or appear at the hearing, the Town Justice or hearing officer may enter a default judgment, and the hearing shall proceed on the evidence in support of the complaint. Such default judgment may be set aside only for good cause shown upon equitable terms and conditions. In the event that the individual who reported the complaint elects not to attend the administrative hearing and upon objection from the accused to that individual's absence, the complaint shall be dismissed and the accused deemed innocent of the allegations.

v. The accused employee shall be entitled to call witness in their behalf and to introduce evidence that bears upon the issue presented by the complaint and investigative report.

vi. The Town Justice or hearing officer shall make findings concerning the innocence or guilt of the employee accused of the offense of sexual harassment within twenty (20) days of the conclusion of the hearing or a reasonable time thereafter. The Town Justice shall then file the final determination with the Town Clerk within ten (10) days of rendering the final determination or a reasonable time thereafter.

vii. A finding of guilt must be supported by a preponderance of substantial, credible evidence that:

- a. The facts alleged by the individual who reported the complaint are true; and
- b. Those facts constitute sexual harassment within the meaning of this Policy; and
- c. The accused is the person who committed the act(s) of sexual harassment.

viii. The Town Clerk shall serve the final determination, along with a notice that an appeal may be requested pursuant to this section, on the accused employee within ten (10) days of the final determination being filed with the Town Clerk or a reasonable time thereafter. Any employee aggrieved by the final determination of the Town Justice or hearing officer shall be entitled to an appeal before the Town Board, which shall review the record of the hearing for material mistakes of law or fact. The aggrieved employee must request said appeal in writing to the Town Board within ten (10) days of the date the aggrieved employee is served with the final determination and notice under this section. If an appeal is requested, the Town Board shall schedule an appeal hearing within thirty (30) days of receipt of the request or a reasonable time thereafter and the Town Clerk shall give the aggrieved employee and other interested parties at least ten (10) days' notice of the appeal hearing.

ix. **Withdrawal of Complaint.** At any time during the investigation and/or adjudication process, the individual who reported the complaint may withdraw the complaint by so notifying all parties involved in the process in writing, including the investigator and hearing officer. In the event the complaint is withdrawn, the sexual harassment charges against the accused employee shall be dismissed.

§85-13 Penalties.

- A. If an employee is found guilty of committing sexual harassment in violation of this Policy such finding shall be grounds for the imposition of penalties against the guilty employee. The Town Board, excluding the Town Supervisor if the Town Supervisor rather than their designee has conducted the investigation, prepared the investigative report, or prosecuted the sexual harassment case, shall then issue one or more of the following penalties:
- i. Written reprimand to be included in the guilty employee's personnel file.
 - ii. Remedial measures such being ordered to complete training and/or awareness programs.
 - iii. Demotion in the guilty employee's grade and title.
 - iv. Suspension without pay for a minimum of one day to a maximum of two (2) months.
 - v. Termination of employment.
- B. If an appeal is not requested, the Town Board shall impose one or more of the above-referenced penalties within thirty (30) days after the accused employee's ten (10) day period to request an appeal has expired or a reasonable time thereafter. If an appeal is requested, the Town Board shall impose one or more of the above referenced penalties within thirty (30) days of the conclusion of the appeal hearing or a reasonable time thereafter.
- C. In imposing a penalty, the Town Board shall consider individual facts of the case, the severity and nature of the conduct, and the employment record of the employee found guilty. In the event that enough members of the Town Board are unable to discharge this duty such that a quorum cannot be reached, the Town Board may designate a third-party entity to discharge that duty (such as an independent arbitrator). The Town Board shall file the penalty with the Town Clerk within ten (10) days of imposing the penalty. The penalties imposed by the Town Board do not prevent a victim of sexual harassment from seeking external remedies. *See Section 85-14 below.*
- D. The Town Clerk must serve the issued penalty on the guilty employee within ten (10) days of the Town Board issuing the penalty. The penalty shall become effective when it is served upon the employee who has been adjudicated guilty.
- E. The Town Clerk shall promptly notify the individual who reported the complaint about the result of the proceedings, including penalties imposed under this section, if any.

§85-14 Legal Protections and External Remedies.

- A. Sexual harassment is not only prohibited by the Town, but it is also prohibited by state, federal, and, where applicable, local law.
- B. The internal process outlined in the Policy above is one way for employees to report sexual harassment. Employees and covered individuals may also choose to pursue legal remedies with the following

government entities. While a private attorney is not required to file a complaint with a government agency, you may also seek the legal advice from an attorney.

- C. **New York State Division of Human Rights** – The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court. DHR’s main office contact information is New York State 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.
- D. **The United States Equal Employment Opportunity Commission** – The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e *et seq.* An individual may file a complaint with the EEOC anytime within three hundred days from the most recent incident of 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. 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 its website at www.eeoc.gov, or emailing info@eeoc.gov. If an individual files an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.
- E. **Contact the Dutchess County Sheriff's Office** – If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact the Dutchess County Sheriff’s Department by calling (845) 486-3800.
2. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, which shall remain in full force and effect.
3. This Local Law is adopted pursuant to the New York State Constitution and Section 10 of the New York Municipal Home Rule Law, to advance and protect the health, safety, and welfare of the Town.
4. To the extent that any provision of this Local Law is inconsistent with Town Law §§ 263, 274-a, 274-b, or any other provision of Article 16 of the Town Law, the provisions of this Local Law are expressly intended to and do hereby supersede any such inconsistent provisions under the Town’s municipal home rule powers, pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.

**Appendix A – Town of Clinton Sexual Harassment Complaint Form
TOWN OF CLINTON**

Complaint Form for Reporting Sexual Harassment

New York State Labor Law requires all employers to adopt a sexual harassment prevention Policy that includes a complaint form to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment or gender discrimination, you are encouraged (but not required) to complete this form and submit it to the Town Supervisor or their designee in person or by mail or email. No employee will be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy, and follow its sexual harassment prevention Policy by investigating the claims as outlined at the end of this form.

For additional resources visit ny.gov/programs/combating-sexual-harassment-workplace

COMPLAINANT INFORMATION

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method: Email Phone In person

SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

COMPLAINT INFORMATION

1. Your complaint of sexual harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Supervisee Coworker Other (please specify)

2. Please describe what happened and include as many details as possible. You may use additional sheets of paper if necessary. If you have any relevant documents, please include them.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? Yes No

4. If possible, please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional but may help the investigation.

5. Have you previously provided information (verbal or written) about related incidents? If yes, when and to whom did you provide information?

This is not required, but if you have retained legal counsel and would like us to work with your attorney, please provide the attorney's contact information.

Signature: _____

Date: _____

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention Policy.

An investigation involves:

- Speaking with the employee.
- Speaking with the alleged harasser.
- Interviewing witnesses.
- Collecting and reviewing any related documents.

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Sexual harassment occurs on a spectrum and employers are encouraged to view all potential allegations with an open mind. Disciplinary action should meet the severity of the alleged actions.

Employers should document the findings of the investigation and the basis for your decision, along with any corrective actions taken. Notify the employee and the individual against whom the report was made of the investigation's outcome and corrective actions taken. This may be done via email.