

## CHAPTER 23

### HARASSMENT POLICY

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[HISTORY: Adopted by the Town Board of the Town of Henderson on July 18, 2005.]

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#### §23-1. Definitions.

An **employee** is

- ... a town official, whether elected or appointed and whether paid or unpaid, including, but not limited to members of any administrative board, commission, or other agency thereof,
- ... a person hired to work for any department of town government, including, but not limited to that of the highway department, sanitation department, water district and or recreation commission,
- ... and any person hired, on a part time basis, for any other above mentioned departments.

#### §23-2. Purpose.

The Town of Henderson seeks to provide a work environment that is free from intimidation and harassment. Harassment and intimidation can arise from a broad range of physical or verbal behavior that can include, but is not limited to, the following:

- Physical or mental abuse
- Racial insults
- Ethnic slurs
- Religious slurs
- Unwelcome sexual advances or touching
- Sexual comments or sexual jokes
- Requests for sexual favors used as a condition of employment or affecting any personnel decision such as hiring, promotion or compensation
- Display of sexually explicit or otherwise offensive posters, calendars or materials.

The Town of Henderson prohibits any form of harassment relating to age, race, sex, sexual orientation, national origin, religion and the other protected categories by employees, co-workers and supervisors, and views such actions very seriously. Such harassment or similar unacceptable

activities that could become a condition of employment or a basis for personnel decisions, or which create a hostile environment, are specifically prohibited.

Sexual harassment is a particular form of employee misconduct that requires more explanation. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment does not refer to occasional compliments or other generally acceptable social behavior. It refers to behavior that is not welcome, personally offensive, undermines or weakens morale and, therefore, unreasonably interferes with the work effectiveness of its victim and their co-workers. Sexual harassment may include such conduct as

1. offensive, sex-oriented verbal "kidding", jokes or abuse;
2. pressure for sexual activity;
3. offensive, unwanted physical contact such as patting, pinching or repeated brushing against another's body; and
4. demands for sexual favors, accompanied by implied or overt promises of preferential treatment concerning an individual's employment status.

The objective of this "no harassment" policy is to create a positive working environment which is free from hostile, offensive, intimidating or harassing conduct that unreasonably interferes with an employee's work on account of any of the types of harassment described above. The target of this policy is the prevention of unwelcome conduct. Employees should be aware of any conduct on their part which could be construed as welcoming conduct directed at them which the employee might actually consider to be unwelcome.

In some situations, a person may not realize that his or her behavior is inappropriate or unwelcome. Employees who consider any person's behavior to be inconsistent with these guidelines are encouraged to tell that person that his or her behavior is considered inappropriate and request that the conduct stop. Persons so told should comply immediately and graciously with such requests.

All forms of unlawful harassment are prohibited. If any employee becomes aware of any harassment, this information should be communicated - without fear of retaliation - to management and/or any officer of the Town of Henderson. The Town of Henderson strongly encourages such employees to come forward promptly. Timely reporting also discourages the spread of harmful rumors. The Town of Henderson will continue its practice of taking prompt and necessary steps to investigate and, where appropriate, correct any form of harassment.

### **§23-3. Discrimination and Harassment.**

The Town of Henderson is committed to providing equal employment opportunity and prohibits all forms of unlawful harassment and discrimination based upon race, color, religion, gender, national origin, ancestry, age, sexual orientation, veteran status, marital status, mental or physical disability, or any other basis protected by law. This policy applies to all areas of employment including, for example, recruitment, hiring, training, promotion, compensation and benefits. Employees may not discriminate against or harass any other employee, applicant, customer, vendor or visitor. This policy applies to all employees and to non-employees who have business contact with employees.

Any employee who is the subject of, who has knowledge of, or who witnesses any possible prohibited harassment or discrimination should immediately bring such information to the

attention of management and/or Town of Henderson officers. The Town of Henderson will continue its practice of taking prompt steps to investigate concerns regarding prohibited harassment and discrimination and, where appropriate, take prompt corrective action. The Town of Henderson will handle reports of such alleged misconduct with sensitivity to concerns for confidentiality, reputation and privacy, as is practicable.

Employees may not take any kind of retaliatory action against an employee who has made a good faith complaint about harassment or discrimination prohibited by this policy.

It is the responsibility of every employee of the Town of Henderson to follow this policy conscientiously.

#### **§23-4. Sexual Harassment**

The Town of Henderson prohibits all forms of sexual harassment, including verbal, non-verbal and physical conduct. Sexual harassment is defined as unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature where: (1) submission to such conduct is made an express or implied term or condition of employment; (2) submission to or rejection of such conduct is used as the basis for employment decisions; or (3) such conduct has the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile or offensive working environment. This definition includes many forms of offensive behavior. It also includes harassment of a person by another person of the same gender.

No employee of the Town of Henderson has the authority to condition any employment term, condition or benefit upon either granting of sexual favors or on tolerating unwelcome sexual conduct or any other conduct prohibited by this policy. Examples of prohibited conduct include but are not limited to

1. offering employment benefits, such as favorable assignments, reviews, promotions or the like, in exchange for sexual favors;
2. denying or threatening to deny employment benefits for rejecting sexual advance;
3. making unwanted sexual advances, propositions, flirtations or repeated unwanted requests for or efforts to make social contact;
4. making verbal conduct of a sexual or gender-based nature, such as using sexually degrading, vulgar or discriminatory words to describe any individual, making sexually suggestive comments about an individual's body, discussing sexual activity, or making derogatory sexual, gender-related or discriminatory comments, slurs, taunts, jokes or epithets;
5. performing on-verbal conduct of a sexual or gender-based nature, such as whistling, unwelcome staring, leering, displaying sexually suggestive, gender-based or discriminatorily based objects, pictures, posters or cartoons, making sexual, derogatory, obscene or discriminatory letters, e-mail messages, voicemail messages, gifts, notes or invitations;

6. making unwelcome physical conduct of a sexual or gender-based nature, such as touching, patting, pinching, brushing the body, or impeding or blocking an individual's movements, or ;
7. Retaliating or threatening retaliation for protesting about sexually harassing or gender-based conduct or for making a complaint about such behavior.

### **§23-5. Other Forms of Harassment**

The Town of Henderson prohibits all forms of unlawful harassment based upon race, color, religion, gender, national origin, ancestry, age, sexual orientation, veteran status, marital status, mental or physical disability or any other basis protected by law, including verbal, non- verbal and physical conduct.

### **§23-6. Examples of prohibited conduct (include but are not limited to:)**

1. Verbal conduct of a discriminatory nature, such as using degrading, vulgar or discriminatory words to describe an individual, or making derogatory discriminatory comments, slurs, taunts, jokes or epithets (i.e., those which are based upon race, color, sex, sexual orientation, age, religious belief, national origin, ancestry, marital status, mental or physical disability);
2. Non-verbal conduct of a discriminatory nature, such as making derogatory or discriminatory gestures, displaying discriminatorily based objects, pictures, posters or cartoons, or giving, sending or circulating derogatory or discriminatory letters, e-mail messages, voice-mail messages, gifts, notes or invitations;
3. Retaliating or threatening retaliation for protesting about harassing conduct or for making a complaint about such behavior.

### **§23-7. Discipline/Discharge**

It is the requirement of any town official, department head, or employee to report any or all types of harassment. Any employee who makes Town Officials aware of harassment activities will not suffer adverse job consequences as a result of such a complaint.” Any employee found to be engaged in any form of harassment will be subject to such discipline as permitted by law which may include termination of employment. The following procedure for reporting such instances is ...

#### **Hired Employees:**

- Step 1: **Written Warning** is given to the employee by the immediate supervisor.
- Step 2: **Written Warning** is given to the employee by the immediate supervisor, and the Town Board is to be notified.
- Step 3: **After investigation** and proper procedures have been followed according to the New York State Civil Service Law and/or employee contracts as such may be applicable,

**any person who is found to have engaged in harassment will be subject to appropriate disciplinary action which can include termination of employment.**

**In the case of an elected official, other action may be taken by the Town Board of the Town of Henderson and its residents.**

**Elected/Appointed Officials:**

**In the case of an elected and/or appointed officials, other action may be taken by the Town Board of the Town of Henderson.**