

VILLAGE OF DONNELLSON, ILLINOIS

ORDINANCE NO. 2018-08

**AN ORDINANCE ADOPTING A POLICY
PROHIBITING SEXUAL HARASSMENT
AND REPEALING ALL PRIOR POLICIES**

ADOPTED BY THE BOARD OF TRUSTEES
OF THE VILLAGE OF DONNELLSON, ILLINOIS
THIS 10th DAY OF DECEMBER, 2018

Published in pamphlet form by the authority of the Board of Trustees of the
Village of Donnellson, Bond/Montgomery County, Illinois, this 10th day of December, 2018.

Prepared by:

Jeffrey A. Mollet
silver lake group, ltd.
560 Suppiger Way
Post Office Box 188
Highland, Illinois 62249
Telephone 618.654.8341
Facsimile 618.654.8391

**STATE OF ILLINOIS
COUNTY OF BOND/MONTGOMERY
VILLAGE OF DONNELLSON**

ORDINANCE NO. 2018-08

**AN ORDINANCE ADOPTING A POLICY
PROHIBITING SEXUAL HARASSMENT
AND REPEALING ALL PRIOR POLICIES**

WHEREAS, the Village of Donnellson, Illinois (“Village”) is a non-home rule unit of local government pursuant to Article VII, § 8 of the 1970 Illinois Constitution; and

WHEREAS, the Illinois General Assembly enacted Public Act 100-554 (the “Act”), effective November 16, 2017, as amended, which is a comprehensive revision of State statutes regulating policies prohibiting sexual harassment; and

WHEREAS, the Act requires that, no later than 60 days after the effective date of said amendatory Act of the 100th General Assembly, November 16, 2017, each governmental unit shall adopt an Ordinance establishing a policy to prohibit sexual harassment; and

WHEREAS, the Board of Trustees has previously enacted an ordinance in compliance with the Act; and

WHEREAS, the Board of Trustees has determined that the adoption of an updated Policy Prohibiting Sexual Harassment is necessary to comply with the Act, and that all policies previously adopted should be repealed.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF DONNELLSON, ILLINOIS:

Section 1. The Policy Prohibiting Sexual Harassment attached hereto as Exhibit A is adopted as and for the policy of the Village, and all ordinances, policies or procedures previously adopted or established by the Village shall be and hereby are repealed in full.

Section 2. Sections 1 thru 8 of Article VII of Chapter 22 of the Village Code is hereby repealed in its entirety, and the policy attached hereto shall become effective in lieu thereof.

Section 3. This Ordinance shall be published in pamphlet form and posted as required by applicable law.

Section 4. This Ordinance shall be in full force and effect upon its passage, approval and publication as provided by applicable law.

This Ordinance was passed and adopted by the Board of Trustees of the Village of Donnellson, Montgomery County, State of Illinois, on this 10th day of December, 2018, upon aye and nay vote as follows:

Aye 5 Nay 0 Absent 1

Approved:

Darrell Jett, Village President

Attest:

Sheryl Reynolds

Sheryl Reynolds, Village Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF MONTGOMERY)

CERTIFICATION

The undersigned does hereby certify that I am the duly qualified and acting Village Clerk of the Village of Donnellson, Montgomery County, Illinois, and that as such officer, I am the keeper of the records and files of the Village of Donnellson, Illinois.

I do further certify that the foregoing document is a true, correct and complete copy of Ordinance 2018-08 as passed by the Board of Trustees of the Village of Donnellson, Illinois at the Regular Village Board Meeting on December 10th, 2018, said ordinance being entitled:

ORDINANCE NO. 2018-08

AN ORDINANCE ADOPTING A POLICY
PROHIBITING SEXUAL HARASSMENT
AND REPEALING ALL PRIOR POLICIES

In witness whereof, I have hereunto affixed my official signature and the seal of the Village of Donnellson, Bond/Montgomery County, Illinois, this 10th day of December, 2018.

Sheryl Reynolds

Sheryl Reynolds, Village Clerk
Village of Donnellson, Illinois



(SEAL)

**VILLAGE OF DONNELLSON
MONTGOMERY COUNTY, ILLINOIS**

POLICY PROHIBITING SEXUAL HARASSMENT

I. Prohibition on Sexual Harassment. It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended. It is the policy of the Village of Donnellson, Illinois ("Village") that all persons shall have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of the Village to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof. The provisions of this policy will apply only insofar as they do not conflict with any state or federal law.

II. Definition of Sexual Harassment. This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Conduct which may constitute sexual harassment includes:

- Verbal: sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.
- Non-verbal: suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.

- Visual: posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- Physical: touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- Textual/Electronic: “sexting” (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites including but not limited to Facebook and Twitter).

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a “reasonable person.”

III. Procedure for Reporting an Allegation of Sexual Harassment. An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending employee, and her/his immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

Any employee may report conduct which is believed to be sexual harassment, including the following:

- Electronic/Direct Communication. If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- Contact with Supervisory Personnel. At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the city manager or administrator, or the chief executive officer of the municipality.

The employee experiencing what he or she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the municipality will not be presumed to have knowledge of the harassment.

- Resolution Outside Municipality. The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or

the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within 300 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within 300 days.

IDHR may be contacted at:

Office Hours: Monday through Friday, (EXCEPT HOLIDAYS) 8:30 A.M. to 5:00 P.M.

Intake Interviews: Monday through Thursday, 8:30 A.M. to 3:00 P.M.
(No interviewing on Friday)

IDHR Website inquiries, comments or questions:

E-mail

Security Measures at the James R. Thompson Center
All visitors to the JRTC are required to show a valid
government-issued picture I.D. and pass through metal detectors;
bags are searched by the Illinois State Police Protective Service Unit (PSU).

Chicago Office

100 West Randolph Street
10th Floor
Intake Unit
Chicago, IL 60601

(312) 814-6200

(866) 740-3953 (TTY)

(312) 814-1436

(FAX - Administration)

(312) 814-6251

(FAX - Charge Processing)

Springfield Office

535 West Jefferson
1st Floor
Intake Unit
Springfield, IL 62702

(217) 785-5100

(866) 740-3953 (TTY)

(217) 785-5106 (FAX)

Equal Employment Opportunity Commission may be contacted at:

Chicago District Office

Location: 500 West Madison Street
Suite 2000
Chicago, Illinois 60661

Phone: 1-800-669-4000

Fax: 312-869-8220

TTY: 312-869-8001

ASL Video 844-234-5122

Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

IV. Prohibition on Retaliation for Reporting Sexual Harassment Allegations. No municipal official, municipal agency, municipal employee or municipal agency or office shall take any retaliatory action against any municipal employee due to a municipal employee's:

1. Disclosure or threatened disclosure of any violation of this policy,
2. The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
3. Assistance or participation in a proceeding to enforce the provisions of this policy.

For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's involvement in protected activity pursuant to this policy.

No individual making a report will be retaliated against even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (5 ILCS 430/15-10, as or if amended) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

1. Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation,
2. Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee, or
3. Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

Pursuant to the Whistleblower Act (740 ILCS 174/15(a), as or if amended), an employer may not retaliate against an employee who discloses information in a court, an administrative

hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (740 ILCS 174/15(b), as or if amended).

According to the Illinois Human Rights Act (775 ILCS 5/6-101, as or if amended), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within 300 days of the alleged retaliation.

V. Consequences of a Violation of the Prohibition on Sexual Harassment. In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in 5 ILCS 430/5-65 (as or if amended), may be subject to a fine of up to \$5,000 per offense, applicable discipline or discharge by the municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

VI. Consequences for Knowingly Making a False Report. A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to \$5,000 against any person who intentionally makes a false, frivolous or bad faith allegation.