

VILLAGE OF DUPO, ILLINOIS

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ORDINANCE NO. 20107

AN ORDINANCE AMENDING THE POLICY PROHIBITING SEXUAL HARASSMENT  
FOR THE VILLAGE OF DUPO, ILLINOIS

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ADOPTED BY THE  
VILLAGE BOARD OF TRUSTEES  
OF THE  
VILLAGE OF DUPO, ILLINOIS  
THIS 6th DAY OF APRIL 2020

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Published in pamphlet form by  
authority of the Village Board  
of Trustees of the Village of  
Dupo, St. Clair County, Illinois,  
this 6th day April 2020.

ORDINANCE NO: 20-07

**AN ORDINANCE AMENDING THE POLICY PROHIBITING SEXUAL HARASSMENT  
FOR THE VILLAGE OF DUPO, ILLINOIS**

**WHEREAS**, the Village of Dupo, St. Clair County, Illinois (the "Village"), is a duly created, organized and validly existing municipality of the State of Illinois under the 1970 Illinois Constitution and the laws of the State of Illinois, including particularly the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto; and

**WHEREAS**, a duly noticed public meeting was held in the Village of Dupo, Illinois at the Dupo Village Hall, 107 N. Second Street, on April 6, 2020 at 7:00 p.m., before the Village Board of Dupo; and

**WHEREAS**, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret and amend its ordinances, rules and regulations; and

**WHEREAS**, the Village Mayor/President and the Board of Trustees of the Village (collectively the "Corporate Authorities") are committed to ensuring that all Village employees are able to enjoy a work environment that is free from all forms of discrimination, including sexual harassment; and

**WHEREAS**, on December 18, 2017, the Village passed an Ordinance (#2017-16) adopting a policy prohibiting sexual harassment for the Village, which Ordinance was further amended by Village Ordinance (#2019-01) on February 19, 2019; and

**WHEREAS**, the Illinois General Assembly has enacted Public Act 101-0221, an Act concerning employment and governmental ethics, which was signed into law on August 9, 2019 (the "Act"); and

**WHEREAS**, pursuant to the Act, each governmental unit shall adopt an ordinance or resolution amending its sexual harassment policy to establish a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit; and

**WHEREAS**, the Corporate Authorities have determined that it is advisable and in the best interest of the Village to modify and amend its Sexual Harassment Policy to be in conformance with this change in the law in that amended form attached hereto as **Exhibit A**.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Board of Trustees of the Village of Dupo, St. Clair County, Illinois, as follows:

**Section 1:** The facts and statements contained in the foregoing recitals are incorporated herein as findings of the Corporate Authorities.

**Section 2:** The Corporate Authorities hereby approve and adopt the Amended Village Sexual Harassment Policy in the form attached to this Ordinance as **Exhibit A**.

**Section 3:** The provisions of this Ordinance are hereby declared to be severable and should any provision of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable

and as though not provided for herein and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.

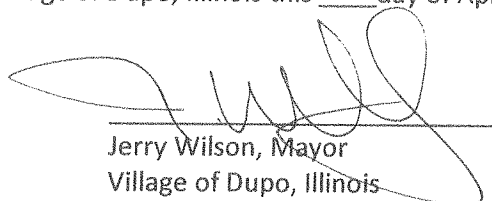
**Section 4:** All code provisions, ordinances, resolutions, rules and order or parts thereof, in conflict herewith are, to the extent of such conflict, hereby repealed, superseded and are of no further force and effect.

**Section 5:** This Ordinance shall be effective and in full force immediately upon passage and approval as provided by law.

**APPROVED AND ADOPTED** this 6<sup>th</sup> day of April 2020 by the Village Mayor and the Village Board of Trustees of the Village of Dupu, St. Clair County, Illinois, and deposited and filed in the office of the Village Clerk in said Village on that date.

<u>Trustees</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Chris Ragsdale	<u>X</u>	_____	_____	_____
Ben Kenner	<u>X</u>	_____	_____	_____
James Smith	<u>X</u>	_____	_____	_____
Joe Basinski	<u>X</u>	_____	_____	_____
Ken Phillips	<u>X</u>	_____	_____	_____
Kerry Foster	<u>X</u>	_____	_____	_____

**APPROVED AND PASSED** by the Mayor of the Village of Dupu, Illinois this \_\_\_\_ day of April 2020.

  
Jerry Wilson, Mayor  
Village of Dupu, Illinois

ATTEST:

  
\_\_\_\_\_  
MARK NADLER, VILLAGE CLERK

(SEAL)

STATE OF ILLINOIS       )  
                                      ) SS  
COUNTY OF ST. CLAIR    )

**CERTIFICATE OF PUBLICATION**

I, Mark Nadler, certify that I am the duly elected and acting Village Clerk of the Village of Dupu, Illinois.

I further certify that on the 6th day of April 2020 the Corporate Authorities of the Village of Dupu, Illinois, passed and approved Ordinance No. 20-07, entitled:

**AN ORDINANCE AMENDING THE POLICY PROHIBITING SEXUAL HARASSMENT  
FOR THE VILLAGE OF DUPO, ILLINOIS**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 20-07, including the ordinance and a cover sheet thereof, was prepared, and a copy of such ordinance was posted in the Dupu Village Hall, commencing on April 6, 2020 and continuing for at least ten (10) days thereafter. Copies of such ordinance were also made available for public inspection upon request in the office of the Village Clerk.

DATED at Dupu, Illinois this 6th day of April 2020.



MARK NADLER, Village Clerk

(SEAL)

STATE OF ILLINOIS       )  
  ) SS  
COUNTY OF ST. CLAIR    )

CERTIFICATE OF TRUE COPY

I, Mark Nadler, certify that I am the duly elected and acting Village Clerk of the Village of Dupu, Illinois, and as such I am the keeper of the books, records, files and corporate seal of said Village.

I do further certify that Ordinance No. 20-07, entitled:

**AN ORDINANCE AMENDING THE POLICY PROHIBITING SEXUAL HARASSMENT  
FOR THE VILLAGE OF DUPO, ILLINOIS**

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Dupu, Illinois Village Council held on the 6th day of April 2020.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 6th day of April 2020.

  
\_\_\_\_\_  
MARK NADLER, Village Clerk

(SEAL)

## EXHIBIT A

### POLICY PROHIBITING SEXUAL HARASSMENT<sup>1</sup>

#### ***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 in 1991. All persons 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 of Dupo, Illinois** (sometimes referred to herein as "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.

#### ***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 like 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

## EXHIBIT A

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.

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) 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)), 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)).

According to the Illinois Human Rights Act (775 ILCS 5/6-101), 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, 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.

**VII. APPLICABILITY, REPORTING AND INDEPENDENT REVIEW OF AN ALLEGATION OF SEXUAL HARASSMENT FOR ELECTED AND APPOINTED OFFICIALS.**

The Village promotes civility and respectful interactions at all levels of its organization, and it is critical that elected and appointed officials understand their responsibility to comply with this policy. Elected and appointed officials are also expected to treat each other in a manner consistent with this policy.

An elected or appointed official who either observes another elected or appointed official engage in sexual harassment or believes themselves to be the object of sexual harassment by another elected or appointed official may report such conduct for independent review to the Village Attorney. If the Village Attorney believes a conflict exists which prevents him/her from conducting an independent review, the Village Attorney must notify the Village of such conflict. Upon receiving notification of the conflict, the Board of Trustees shall authorize the engagement of outside legal counsel to conduct the review.

The Village Attorney or outside legal counsel shall conduct an independent review of the allegations and provide any findings to the Corporate Authorities of the Village. Any documents, communications or

## EXHIBIT A

other records created pursuant to the review shall remain confidential, subject to attorney-client privilege and will not be disclosed unless such disclosure is authorized by resolution of the Corporate Authorities or as otherwise required by applicable local, state or federal law.

Such records shall also be presumed as exempt from disclosure under the Freedom of Information Act to the extent it is applicable.

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<sup>1</sup> This policy was drafted using the Illinois Department of Human Rights Sexual Harassment Model Policy and has been modified to conform to Public Act 100-0554.

The provisions of this policy will apply only insofar as they do not conflict with any state or federal law.