

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE TOWNSHIP  
CODE OF THE TOWNSHIP OF MINE HILL, BY THE ENACTMENT OF A  
CHAPTER XX, ENTITLED "SEXUAL HARASSMENT"**

**WHEREAS**, the Township Council recognizes that it must take a leadership role in recognizing that sexual harassment is a significant problem in the workplace and that it has both a moral and legal obligation to eradicate it; and

**WHEREAS**, it is declared the Township policy that all employees have a right to work in an environment free of discrimination, which encompasses freedom from sexual harassment; and

**WHEREAS**, it takes the efforts of employers and employees alike to prevent sexual harassment from occurring in the workplace; and

**WHEREAS**, employers and employees are entitled to the knowledge that their workplace is free of this type of discrimination so that the daily routines of work can be performed without fear of intimidation, unwanted pressure or loss of morale; and

**WHEREAS**, the proportion of women within the municipal work force has and will grow in the future, and those women are legally and morally entitled to respect and dignity in the workplace; and

WHEREAS, sexual harassment now is deemed to include many more subtle actions, commonly known as the creation of a "hostile work environment"; and

**WHEREAS**, the Township wishes to take all steps necessary, including the training of supervisors and the creation of a process to air complaints, in order to create a work environment free of sexual harassment and maintain awareness that sexual harassment cannot and will not be tolerated within this Township' s Government.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MINE HILL AS FOLLOWS:**

**SECTION 1.** The Township Code of the Township of Mine Hill is amended and supplemented with the addition of a Chapter XX, entitled "Sexual Harassment", which shall read in its entirety as follows:

20-1.1. Definitions.

As used in this Chapter the following words shall have these specific definitions:

Charged Party. Any person, including a Township employee against whom a charge of sexual harassment is filed.

Complainant. Any Township employee who brings or files a charge of sexual harassment.

Hostile Work Environment Harassment. A factual finding by the hearing administrator that a charged party has committed an offense or offenses rising to the level of sexual harassment, to wit:

through severe and pervasive verbal and/or physical

conduct of a patently offensive nature not welcomed by the complainant not only created a work environment that would interfere with the performance and psychological well-being of a reasonable person of the same sex but also specifically offended and injured the complainant; said harassment being considered a type of sexual harassment.

Investigator. The person supervising or administering the investigation regarding a sexual harassment complaint or complaints. Normally, this shall be the Township Administrator, unless circumstances dictate otherwise.

**"quid pro Quo" Harassment. A factual finding by the hearing administrator that a charged party has committed an offense or offenses rising to the level of sexual harassment, to wit:**

made unwelcome sexual advances motivated by sexual desires upon a complainant, **where the reaction of the complainant to the advance affected a tangible aspect of the terms of their employment with the Township, said harassment being considered a type of sexual harassment.**

**Retaliation. Any act of any Township official taken to punish, discourage or intimidate those persons who have or may either become a Complainant or assist in the investigation of a legitimate sexual harassment complaint.**

**Sexual Harassment. The term sexual harassment shall include the following:**

1. Any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a **sexual nature when:**
  - a. submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment; or
  - b. submission to or rejection of such conduct by a person is used as a basis for employment decisions affecting that person; or
  - c. such conduct has the purpose or effect of unreasonably interfering with a person's work performance; or
  - d. such conduct creates an intimidating, unpleasant or offensive work environment.
2. "Hostile work environment" harassment; and
3. "Quid-pro-Quo" sexual harassment.

20-2 Complaint Procedure.

20-2.1 Who may file.

Any Township employee who feels that they have been the victim of sexual harassment, or who witnessed acts of sexual harassment against a fellow employee of the Township, may file a complaint of sexual harassment with the following persons, but solely in the specific order listed below:

2. the Township Administrator; or
3. the Mayor of the Township.

Any filing of a complaint to a person other than the complainant's direct supervisor must be accompanied by a statement that the persons to whom the complaint should otherwise be addressed, pursuant to the list above, cannot, in the mind of the complainant, be objective about the sexual harassment charge the complainant wishes to file.

#### 20-2.2 Contents of Filing.

The complaint filed must include the following information:

1. the name, department and position or title of the complainant;
2. the name, department and position or title of the charged party;
3. the nature and circumstances, in detail, of the alleged sexual harassment, including but not limited to, the injuries or consequences suffered by the complainant, the names of any witnesses to such actions and the duration of the actions questioned; and
4. whether such harassment has been previously reported to a supervisor or other person, and if so, when and to whom.

Nothing in this section shall prevent the complainant from providing other information or documents they believe are essential to the fair adjudication of their case.

The filing may be made orally or in writing. If same is made orally, the person receiving the complaint shall reduce same to a writing, which shall, if it is deemed accurate, be signed by the complainant.

#### 20-2.3 Investigation of Filed Complaints.

A complaint of sexual harassment shall be investigated pursuant to the following regulations:

1. their direct supervisor;

1. The Township Administrator, or his appointed designee (if the complainant, by his choice of filing pursuant to Chapter 20-2.1, or because the claim involves the Administrator has declared the

1. their direct supervisor;

apparent non-objectivity of the Administrator), shall be responsible for the prompt and thorough investigation of each claim.

2. The investigation shall be begun and completed within three (3) business days of the receipt of the complaint by the Administrator or his appointed designee, and the result of the investigation forwarded to the Hearing Board, as **defined in Chapter 20.2—4, within seven (7) days** of the completion of the investigation.

3. It shall be the duty of the person responsible for the investigation to:

a. interview the complainant in detail;

b. interview all potential witnesses, including those who may have knowledge of similar incidents;

c. interview the charged party in detail;

d. review municipal files for similar incidents involving the complainant and the charged party; and

e. assess the presence or absence of corroborative evidence for either party.

#### 20-2.4 Sexual Harassment Hearing Board.

There shall be created for the Township a Sexual Harassment Hearing Board (the "Hearing Board"), which shall consist of three (3) members, one (1) member to be chosen by the Mayor, one (1) member to be chosen by the Township Council and one (1) member to be chosen by the non-management employees of the Township from among those employees by secret ballot. The Mayor shall not be permitted to choose him or herself, nor may the Council choose any person holding a Council seat. The person chosen to serve on the Hearing Board by the non-management employees shall chair the Hearing Board and shall organize and lead all meetings of that body.

All persons chosen to serve on the Hearing Board shall undergo the same training required of all management and supervisory personnel of the Township, as described in 20-3.2 below.

1. their direct supervisor;

20-2.5 Administrative Hearing.

There shall be an Administrative Hearing of the complaint, pursuant to the following rules:

1. their direct supervisor;

1. Within twenty (20) days of the completion of the investigation by the Township Administrator or his appointed designee, the chair of the Hearing Board **shall convene that Board to hold a hearing in reference to that sexual harassment allegation.**
2. The hearing shall be tape recorded, and upon t h e written request the Township shall provide a transcript to any party requesting same at a nominal expense to the party requesting said transcript.
3. The charged party shall be notified, in writing, of **the hearing date at least ten (10) days before the** hearing and provided with a copy of the complaint **filed against them;**
4. The charged party shall be entitled to request and receive one (1) postponement in order to obtain legal counsel, but in no event shall the hearing occur more than thirty-five (35) days after the completion of the investigation described above.
5. The hearing shall be deemed a quasi-judicial procedure and the charged party shall be entitled to state all defenses, enter relevant evidence, call witnesses on their behalf and confront all witnesses against them, including the complainant. Should the complainant fail to appear at the hearing, the charged party shall be entitled to have the complaint against them dismissed.
6. The hearing shall occur only in the presence of the Township Attorney, or other designated legal counsel, who shall participate in such hearings in order to assure confidentiality, resolve disputes concerning the introduction of evidence and prepare a complete and accurate record.
7. The Hearing Board shall determine, and so declare in writing, within five (5) business days the guilt or innocence of the charged party, and if it finds the charged party guilty of the offense of sexual harassment, it shall recommend an appropriate remedial action to be imposed upon the charged party.
8. Where the charged party is cleared of the charges alleged against them, or the evidence presented it inconclusive as to whether acts of sexual harassment occurred, the Hearing Board shall notify all parties that it has reached such a decision.

1. their direct supervisor;

9. The Hearing Board shall maintain a complete file of all documents received in reference to any complaint for a period of not less than five (5) years from the date of its final decision.

#### 20-2.6 Standard for Determination of Guilt.

The Hearing Board shall determine that a charged party is not guilty of the offense of sexual harassment unless it finds, based upon the testimony provided to it by the investigation and hearing, that substantial, credible evidence supports the conclusion that:

1. the facts as alleged by the complainant are true;
2. those facts constitute Sexual Harassment as defined above; and
3. the charged party is the person who committed the acts amounting to sexual harassment as defined above.

#### 20-2.7 Appeal to the Township Council.

A complainant or charged party who desires to appeal the decision of the Hearing Board may appeal to the Township Council. The appealing party must appeal in writing to the Township Administrator within ten (10) days of the date of the written decision of the Hearing Board, informing the Administrator of their desire to appeal and stating why the decision of the Hearing Board should be overturned.

The party not appealing shall also have the option of submitting, within twenty (20) days subsequent to the written decision of the Hearing Board, a writing stating why the Hearing Board decision should be affirmed.

The appealing party shall provide, at their own expense, a copy of the transcript prepared from the tape recording of the hearing before the Hearing Board for each member of the Council.

The Council will not hear witnesses, take testimony or accept additional documentation in reference to the appeal.

The Council must issue a written decision affirming or rejecting the decision of the Hearing Board not less than twenty-five (25) days after the Township Administrator receives notice of the appeal.

#### 20-2.8 Remedial Action.

1. their direct supervisor;

The Township Administrator, or such other person as is authorized by the Township to make so-called personnel decisions,

1. their direct supervisor;

shall be permitted, pursuant to the written recommendation of the Hearing Board required by 20-2.5(7), to impose the following penalties or conditions of employment upon a Township employee found to have committed the offense of sexual harassment. These remedies are listed are not to be considered cumulative in any manner:

1. discharge or denote the guilty employee;
2. issue a written reprimand which shall become part of the guilty employee's permanent employment file;
3. transfer either of the parties involved so as to minimize contact between them;
4. require the guilty employee to undergo psychological therapy at his/her own expense; and
5. reissue to the guilty employee the policy statement of the Township against sexual harassment.

The Township hereby makes it its official policy to encourage all of its employees to use the procedures detailed herein when they witness conduct against other Township employees which might constitute the offense of sexual harassment.

#### 20-2.10 Exhaustion of Remedies.

To the extent permitted by law, the Township will not be liable in damages obtained against it as a result of a decision of a non-local agency or court of superior jurisdiction unless the complainant has exhausted all local administrative remedies described herein in Chapter 20-2.1 et. seq.

#### 20-3 Prevention of Sexual Harassment in the workplace.

##### 20-3.1 Dissemination of the Township Policy Against Sexual Harassment.

The Township Administrator shall be obligated to undertake the following steps:

1. Post in at least two (2) or more prominent locations within the municipal building the one (1) page document entitled "Sexual Harassment Policy for the Township of Nine Hill";
2. Provide to all current employees of the Township a true and complete copy of this Ordinance within thirty (30) days of its effective date;
3. Provide to all persons hired as employees of the

1.           their direct supervisor;  
Township subsequent to the effective date of this

1. their direct supervisor;

ordinance a true and complete copy of this ordinance within thirty (30) days of their hire date;

4. Issue a memorandum to all Township employees on or about October 1, 1993 and each October 1 thereafter concerning the policy of this Township against sexual harassment; and
5. Discuss the policy against sexual harassment during any new employee orientation meetings, seminars, or training sessions held subsequent to the effective date of this ordinance.

**20-3.2 Periodic training of all Township employees in reference to sexual harassment.**

All management and supervisory employees of the **Township as well as all elected officials** of the Township shall undergo training, in one or more sessions, with a person trained to lead or implement such training, said training to include a detailed discussion of the following:

1. The procedures for the filing of a sexual harassment charges as outlined in this Ordinance;
2. The specifics of "quid pro quo" harassment and "hostile environment" harassment and the differences between the two types;
3. What constitutes "unwelcome" conduct;
4. The manner of investigation which assures complete and prompt investigations;
5. Management's obligations regarding harassment of which it is aware, or alternatively, "should be aware"
6. Procedures to be installed to insure the confidential nature of information gathered during an investigation;
7. The manner in which the interests of both the charged party and the complainant can be balanced; and
8. Recordkeeping requirements.

The above-described personnel shall be required to undergo this training on or before October 1, 1993 and every three (3) years thereafter.

1. their direct supervisor;

training, led by a person trained to lead such sessions, to raise their awareness and understanding of the consequences of their behavior and to reduce confusion about which actions or conduct is acceptable and which is not. These employees shall be required to undergo this training on or before October 1, 1993 and every two (2) years thereafter.

20-4.1 Applicability of this Ordinance to certain non-employees of the Township

Non-employees of the Township, including but not limited to, those interacting with Township employees as vendors of goods and services, independent contractors, substitute or temporary workers or fill-ins, shall also be subject to each and every term of this ordinance should it be alleged by a complainant that they committed an act or conducted themselves in such a way as to commit an offense of sexual harassment.

20-5.0 Retaliation strictly prohibited.

The Township shall not take any retaliation against any employee who files a complaint or assists in the investigation of such a complaint.

20-6.1 False Accusations.

Since a charge of sexual harassment is a grave and serious one, false accusations of sexual harassment are, and will be treated as, a disciplinary offense and will result in a level of punishment appropriate for a person actually engaging in such behavior.

A person who knowingly and/or recklessly fails to give truthful testimony to the Investigator or the Hearing Board, as same are established by this Ordinance, shall also be guilty of having made false accusations.

**SECTION 2.** To the extent this Ordinance repeals, alters or amends any portion of the existing Township Code of the Township of Mine Hill, the terms of this Ordinance shall be controlling.

**SECTION 3.**

accordance with law.

1. their direct supervisor;

It is the Township policy that all of its employees have a right to a workplace free of all discrimination, including sexual discrimination. The Township strongly disapproves of sexual harassment of its employees in any form, and states that **ALL EMPLOYEES AT ALL LEVELS OF THE TOWNSHIP MUST NOT ENGAGE IN SEXUAL HARASSMENT AND WILL BE HELD RESPONSIBLE FOR INSURING THAT THIS WORKPLACE IS FREE OF SUCH HARASSMENT.**

The Township specifically prohibits the following:

Unwelcome sexual advances; requests for sexual favors whether or not accompanied by promises or threats relating to employment; other verbal or physical conduct of sexual nature made to any employee which states or suggests a connection between the response of the recipient of that conduct and that person's terms of employment with the Township; any verbal or physical conduct which has the purpose or effect of substantially interfering with another employee's ability to perform their job; any verbal or physical conduct that has the purpose or effect of creating an intimidating or hostile work environment; posting or circulation of offensive or suggestive books, photos, cartoons or pictures; comments about another's body; and the use of offensive words directed at a specific gender, group or race.

**SUCH CONDUCT MAY RESULT IN DISCIPLINARY ACTION UP TO AND INCLUDING DISMISSAL.**

Employees who have complaints of sexual harassment by anyone at work, including any supervisors, co-employees, or visitors, or who witness acts of sexual harassment committed against others are urged to immediately report such conduct to a Township official to insure a prompt investigation.

Employees should normally bring the complaint to the attention of their direct supervisor. However, if doing so would, for whatever reason, make them uncomfortable, the employee should bring the complaint to the attention of firstly, the Township Administrator or secondly, the Mayor, as the circumstances of the complaint dictate.

The Township will endeavor to investigate all complaints in a complete, impartial and prompt manner. All investigations will be supervised by the Township Attorney, or other legal counsel, where circumstances so dictate.

The Township promises that it will make every effort to maintain the confidential nature of the information it gathers during a sexual harassment investigation.

**SEXUAL HARASSMENT POLICY FOR THE TOWNSHIP OF MINE HILL**

**However, because an allegation of sexual harassment is a** very serious matter for all concerned, and will not be taken lightly by this Township, should the Township learn that a complaint is not bona fide or that an employee has provided false information, that employee will be subject to discipline.

Mayor, Mine Hill Township