



BATAVIA CITY COUNCIL SPECIAL BUSINESS MEETING

**City Hall - Council Board Room
One Batavia City Centre
Monday, October 22, 2018
(Following Conference Meeting)**

AGENDA

- I. Call to Order
- II. New Business
 - #85-2018 A Resolution to Approve the Sales Tax Allocation Second Amended Agreement between the County of Genesee and City of Batavia
 - #86-2018 A Resolution to Enter into an Agreement with Elmer W. Davis For Roofs Of Two Hallways And Four Silos In The Batavia City Centre
 - #87-2018 A Resolution Amending City of Batavia's Personnel Policies Manual to Adopt New York State Sexual Harassment Policy
 - #88-2018 A Resolution to Introduce an Ordinance Amending Chapter 190 Entitled "Zoning" of the City of Batavia Municipal Code to Amend the Zoning Map of the City of Batavia and to Schedule a Public Hearing
- III. Adjournment

#85-2018

**A RESOLUTION TO APPROVE THE SALES TAX ALLOCATION SECOND
AMENDED AGREEMENT BETWEEN THE COUNTY OF GENESEE AND CITY OF
BATAVIA**

Motion of Councilperson

WHEREAS, the County of Genesee (hereinafter “County”), and the City of Batavia (hereinafter “City”), entered into an “Agreement – Sales Tax Allocation County of Genesee and City of Batavia” dated December 31, 2007 (hereinafter “2007 Agreement”), and

WHEREAS, this “2007 Agreement” provided for a division of the net proceeds of sales tax imposed by the County, by and among the County, the City and the Towns and Villages located in Genesee County, and

WHEREAS, pursuant to the Fifth Paragraph of this “2007 Agreement”, the terms and conditions of the Agreement were to end on February 28, 2018, and

WHEREAS, on November 10, 2016, the County Legislature adopted a Resolution No. 416-2016 which notified the City of Batavia of its intention to terminate the “2007 Agreement”, in the event that the parties did not timely enter into a new Agreement, and

WHEREAS, the City and County did subsequently enter into a “Sales Tax Allocation Amended Agreement Between the County of Genesee and the City of Batavia”, dated June 19, 2017, which extended the term of the “2007 Agreement” until December 31, 2018, and

WHEREAS, the City and County have been negotiating to enter into a new Agreement for a term of 40 years, and have been advised that in order to obtain approval for an Agreement for this length of time it will be necessary to obtain special legislation from the New York State Legislature, which the parties intend to pursue, and

WHEREAS, to allow time to complete the special legislative process the City and County need to extend the “2007 Agreement” for an additional period of one year, and

WHEREAS, a Committee was formed and has convened as set forth in the Sixth Paragraph of the “2007 Agreement”, in order to make a recommendation to the Legislature and the City Council as to whether or not to amend, modify or extend this “2007 Agreement” for an additional term, and

WHEREAS, this Committee has met numerous times, and has in fact recommended to the Legislature and the City Council that the “2007 Agreement” be extended for a period of 1 year, and

WHEREAS, the County Legislature intends to accept and act upon this recommendation by entering into a Second Amended Agreement to extend the termination date until December 31, 2019.

NOW, THEREFORE, BE IT RESOLVED, that the City Council President of the City of Batavia is hereby authorized and directed to execute on behalf of the City a proposed "Sales Tax Allocation Second Amended Agreement between the County of Genesee and the City of Batavia", in order to extend the term of the prior Sales Tax Allocation Agreement, dated December 31, 2007, for an additional term of 1 year to end on December 31, 2019.

**Seconded by Councilperson
and on roll call**

**SALES TAX ALLOCATION SECOND AMENDED AGREEMENT
BETWEEN THE COUNTY OF GENESEE AND THE CITY OF BATAVIA**

THIS AGREEMENT made the _____ day _____, 2018, by and between the County of Genesee, a municipal corporation of the State of New York, with offices located at the Old Courthouse, 7 Main Street, Batavia, New York, 14020 (hereinafter "County"), and the City of Batavia, a municipal corporation of the State of New York with offices located at One Batavia City Centre, Batavia, New York 14020 (hereinafter "City").

WITNESSETH:

WHEREAS, the Parties previously entered into an "Agreement Sales Tax Allocation County of Genesee and City of Batavia", dated December 31, 2007, (hereinafter "2007 Agreement") and

WHEREAS, the Parties subsequently entered into a "Sales Tax Allocation Amended Agreement Between the County of Genesee and the City of Batavia", dated June 19, 2017, which extended the term of the "2007 Agreement" until December 31, 2018, and

WHEREAS, the Parties desire and intend to extend the "2007 Agreement" for an additional 1 year.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed as follows:

1. The Fifth Paragraph of the "2007 Agreement" shall be revised to extend the term for an additional period of 1 year, to end on December 31, 2019, instead of the date of December 31, 2018.
2. The parties acknowledge that the prior notice by the County to the City to terminate the Agreement pursuant to the second paragraph of the Sixth Paragraph shall remain in full force and effect; except that the termination date is extended until December 31, 2019.
3. Any and all terms and conditions set forth in the "2007 Agreement", which are not specifically revised or amended herein, shall remain in full force and effect.

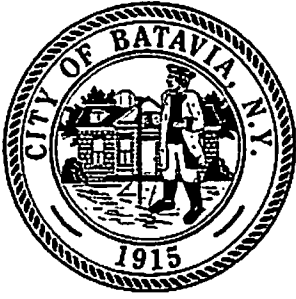
IN WITNESS WHEREOF, the parties have signed this Second Amended Agreement the day and year first written above.

CITY OF BATAVIA

By: _____
Eugene Jankowski, Jr.
President, City Council

COUNTY OF GENESEE

By: _____
Robert Bausch
Chairman, County Legislature



City of Batavia

Memorandum

To: Martin Moore City Manager

From: Matt Worth, Director of Public Works



Date: September 3, 2018

Rev. October 2, 2018 - 12 Month Extension

Rev. October 16, 2018 – Change to Martin Moore City Manager, Change in Extension Agreement

Subject: Sales Tax Agreement with Genesee County

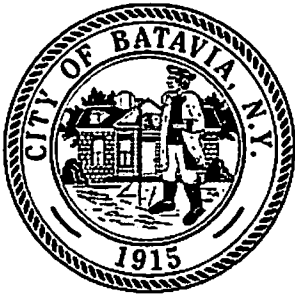
History

The City of Batavia and Genesee County first entered into a sales tax agreement in 1999 as part of a larger plan to increase and extend public water supply to various targeted areas within the County. The expectation being that with the expansion of public water, economic growth would be promoted throughout the County. The City would be the “hub of the wheel” with an existing water supply that could be utilized, and also as the population center containing much of County government, Financial Institutions, and Medical Services that would be the central services to support this growth. It was also understood that the City was essentially “built out” and that the resulting growth would not benefit the City under the current preemption of sales tax that had been taking place. A shared percentage of total County sales tax was the agreement that was entered into and has been a successful model ever since.

The agreement allowed for the City to receive 16% of the County’s share of sales tax, 50% to remain with the County and 34% to be shared with the remaining municipalities throughout the County. This agreement was extended, in this format, in 2007 for a ten-year period, and extended an additional 10 months in 2017 with an expiration of December 31, 2017.

Transition out of Existing Agreement

In 2016 Genesee County notified the City that it was not willing to renew the sales tax agreement in its current form. The County referenced pressures to construct a new jail, and replacement of bridges that are in various stages of dis-repair. The County proposed freezing sales tax disbursements at existing



City of Batavia

levels which would stay flat into the future. The impact to the City would be significant under the proposal, and seemed to be counter to the stated goals of the original agreements. The City, County, and GAM agreed to a sales tax/water agreement subcommittee to review possible solutions in an advisory capacity. The subcommittee charged administrative staff from both the City and County to meet and find acceptable solutions to the sales tax and water issues in an effort to create new agreements. This process resulted in a ten-month extension of the agreements until December 31, 2018 to allow the various parties time to find common ground.

Transition into New Agreement

Staff from both the City and County have continued to meet, and have made every effort to understand the concerns and long-term needs of all involved. These meetings have resulted in several attempts to craft sales tax and water agreements that will allow for expanded water service, continued economic growth and resources for capital expenditures into the future. As is often the case, the teams had to get through a lot of difficult negotiations before finding solutions that both sides felt were acceptable.

The New Agreement

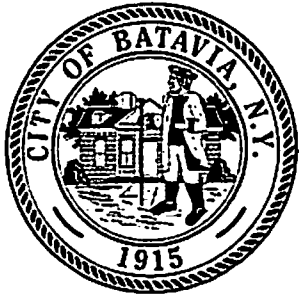
The form and details of a new sales tax agreement have been created for consideration by City Council and the County Legislature. The agreement allows for the City to receive its current share of sales tax (16%) thru 2018 with an ability for that amount to grow in future years by a maximum of 2% per year. If future sales tax growth exceeds 2% annually, the County will retain the amount above 2% resulting in the City's overall share changing even though the City received additional funds. Assuming that there will be growth above 2% during some years, eventually the City's share of sales tax will become 14% of the total which then removes the 2% maximum growth cap. The City will remain at 14% thereafter for the remainder of the contract.

This agreement allows for the City to continue to share in the total growth of sales tax countywide, while allowing for the County to collect additional funds for capital improvements (bridges and jail, etc) in good years where sales tax growth exceeds 2%. The 14% floor is an additional safety net for the City to share in good years above 2% once that threshold is reached.

12 Month Extension Agreement

Office of the City Manager
One Batavia City Centre
Batavia, New York 14020

Phone: 585-345-6330
Fax: 585-343-8182
www.batavianewyork.com



City of Batavia

A response from the New York State Comptroller's Office has indicated that a forty (40) year agreement would not likely be approved by the office without "special legislation" from the New York State Legislature. Genesee County, with support from the City will be requesting through our state representatives that this special legislation be introduced for approval during the next available session. There are two instances when agreements of 40-years or more have been approved previously with this "special legislation," specifically, in Wayne and Ontario counties.

The County has provided a new extension agreement that extends the current agreement for an additional 12-month term and would expire on December 31, 2019. This would allow for the necessary time for the "special legislation" to go through the state legislative process allowing for an agreement with a 40-year term to be presented to both the City Council and Genesee County Legislature ahead of the extension expiring.

Supporting Documentation

Draft Agreement

Draft Resolution

#86-2018
A RESOLUTION TO REJECT ALL BIDS FOR CONTRACT 2018-5 FOR ROOF
REPLACEMENTS OF TWO HALLWAYS AND FOUR SILOS
IN THE BATAVIA CITY CENTRE

Motion of Councilperson

WHEREAS, in accordance with General Municipal Law Section 103, on September 26, 2018 the City of Batavia issued a competitive bid for the replacement of the roof for the Batavia City Centre which includes the hallway roof adjacent to Sunny's restaurant, the hallway roof adjacent to City Hall and all four silo roofs; and

WHEREAS, Two (2) bids were received on October 17, 2018 and Elmer W. Davis, was the lowest responsible bidder in the amount of \$179,200.00 for the replacement of the hallway and \$62,000.00 for the silo roofs; and

WHEREAS, after review of both bids by the City's engineers and Department of Public Works it has been determined that the lowest bidder has submitted a bid higher than the estimated cost of the project; and

WHEREAS, the rejection of all bids and re-bidding of contract 2018-5 "City of Batavia Entry & EPDM Roof Repairs" is likely to result in lower contract prices and a benefit to City taxpayers; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that all bids for contract 2018-5 "City of Batavia Entry & EPDM Roof Repairs" submitted on October 17, 2018 be hereby rejected.

Seconded by Councilperson
and on the roll call

#87-2018

**A RESOLUTION AMENDING CITY OF BATAVIA'S PERSONNEL POLICIES
MANUAL TO ADOPT NEW YORK STATE SEXUAL HARASSMENT POLICY**

Motion of Councilperson

WHEREAS, the City of Batavia Council has adopted the City's Personnel Policies Manual maintained by the Bureau of Human Resources; and

WHEREAS, the Manual is revised from time to time by the City and the last version is August 2011; and

WHEREAS, the State of New York 2018-2019 budget legislation included a new requirements that every employer in the State of New York is required to implement sexual harassment prevention policy applicable to all employees and provide training to every employee on an annual basis; and

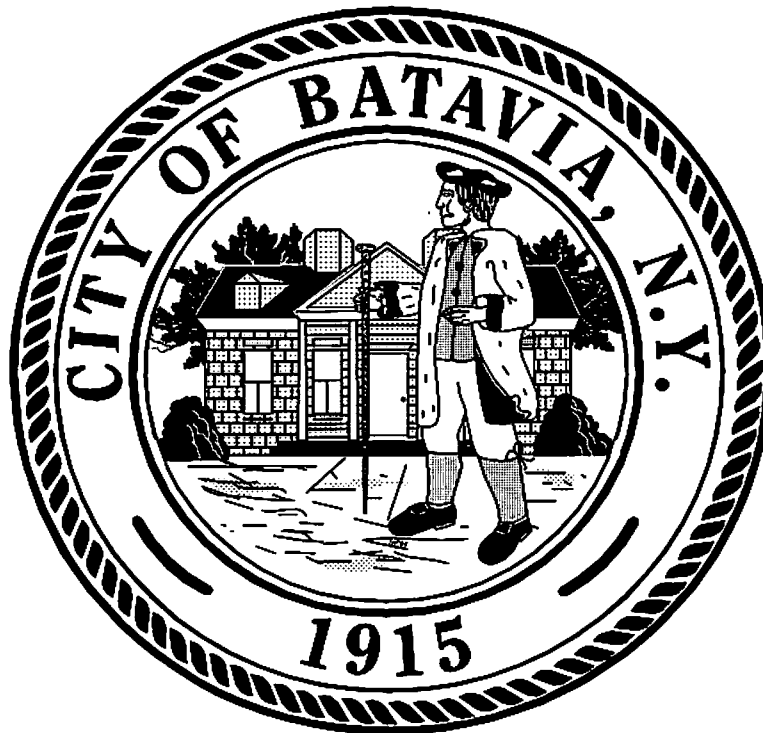
WHEREAS, employers are required to adopt the sexual harassment policy by October 9, 2018 and provide training by October 9, 2019; and

WHEREAS, the Bureau of Human Resources has revised the Personnel Policies Manual to include the required State Sexual Harassment Prevention Policy; and

NOW THEREFORE, BE IT RESOLVED, that the City Council adopts the revised Personnel Policies Manual dated October 2018.

**Seconded by Councilperson
And on Roll Call**

CITY OF BATAVIA, NEW YORK



PERSONNEL POLICIES MANUAL

MAINTAINED BY:

Bureau of Human Resources

Revision Date:

October, 2018

City of Batavia
Personnel Policies Manual

Preface

Employees: The City's most valuable asset

Whether you are a new City employee just beginning your career with the City or you are a long tenured member of the City of Batavia team, you exemplify the best of what the City has to offer. You are dedicated to providing quality public service, responsive customer service and the responsible advancement and progress of our City. We take our commitment to service seriously and, to enjoy a successful and rewarding career with the City, you must also.

You should read this manual carefully. The policies and procedures contained in this handbook constitute guidelines only and are in no way interpreted as a contract between the City of Batavia and/or any of its employees. The City of Batavia expressly reserves the right to modify or delete any of the policies contained herein without notice.

The employments of individuals in certain positions with the City of Batavia are governed by negotiated collective bargaining agreements. For such positions, the collective bargaining agreement represents the conditions of their employment. On any item on which the agreement is silent, these personnel policies will prevail. If any item in these personnel policies is in conflict with the collective bargaining agreement, the agreement will prevail.

If you need any additional information you should direct your questions to your immediate supervisor, department head or the Bureau of Human Resources.

We wish you every success in your career with the City of Batavia.

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CHAPTER 8
PERSONAL CONDUCT
ARTICLE III
Sexual Harassment

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§ 8 – 14. Reporting sexual harassment.

§ 8 – 15. Supervisor responsibilities.

§ 8 – 16. Complaint and investigation of sexual harassment.

§ 8 – 17. Sexual harassment complaint form, City of Batavia.

ARTICLE III – Sexual Harassment Policy – City of Batavia

§ 8 – 11 Applicability.

The City of Batavia is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of **The City of Batavia's** commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with **The City of Batavia**. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

§ 8 – 12 Policy:

1. **The City of Batavia's** policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with **The City of Batavia**. In the remainder of this document, the term "employees" refers to this collective group.

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. **The City of Batavia** will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of **The City of Batavia** who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or **The Department of Human Resources**. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject **The City of Batavia** to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. **The City of Batavia** will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. **The City of Batavia** will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. **The City of Batavia** will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe or become aware of, to **The Department of Human Resources**.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees 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 provided pursuant to a contract with the employer.

8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

§ 8 – 13 What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and 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 includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

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.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to 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.

§ 8 – 14 Reporting Sexual Harassment:

Preventing sexual harassment is everyone’s responsibility. The City of Batavia cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or **The Department of Human Resources**. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or **The Department of Human Resources**.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

§ 8 – 15 Supervisory Responsibilities:

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to **The Department of Human Resources**.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

§ 8 – 16 Complaint and Investigation of Sexual Harassment:

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. **The City of Batavia** will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, **The Department of Human Resources** will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant),

as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.

- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by **The City of Batavia** but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at **The City of Batavia**, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to **The City of Batavia** does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS 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.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the 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, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

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 their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

§ 8 – 17 Sexual Harassment Complaint Form City of Batavia.

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, you are encouraged to complete this form and submit it, in person, to The Human Resource Department, One Batavia City Centre, Second Floor. You will not 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 Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? Yes No

4. 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 complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their 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.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.

#88-2018

A RESOLUTION TO INTRODUCE AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA AND TO SCHEDULE A PUBLIC HEARING

Motion of Councilperson

BE IT RESOLVED that a proposed Ordinance entitled “AN ORDINANCE AMENDING CHAPTER 190 ENTITLED “ZONING” OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA” is introduced before the City Council of the City of Batavia, New York; and

BE IT FURTHER RESOLVED that copies of the aforesaid proposed Ordinance be laid upon the desk of each member of the City Council; and

BE IT FURTHER RESOLVED that the City Council hold a public hearing on said proposed Ordinance at the City Hall, One Batavia City Centre, Batavia, New York, at 7:00 P.M. on Tuesday, November 13, 2018; and

BE IT FURTHER RESOLVED that the City Clerk publish or cause to be published a public notice in the official newspaper of the City of said public hearing at least five days prior thereto.

**Seconded by Councilperson
and roll call**

ORDINANCE #2-2018

AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "ZONING" OF THE CITY OF BATAVIA MUNICIPAL CODE TO AMEND THE ZONING MAP OF THE CITY OF BATAVIA

SECTION 1. AMENDMENT OF THE ZONING MAP OF THE CITY OF BATAVIA TO REZONE PREMISES FROM A R-3 RESIDENTIAL DISTRICT TO A C-3 CENTRAL COMMERCIAL DISTRICT.

PREMISES BEING MORE RECENTLY DESCRIBED AS ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Batavia, County of Genesee and State of New York and is more particularly described as follows:

BEGINING at a point in the south right-of-way line of Central Avenue said point being the northwest corner of lands conveyed to The City Church, Inc., by Deed recorded in the G.C.C.O. Liber 920 of Deeds, page 913,

- 1) Easterly, along the south line of Central Avenue a distance of xxx feet to a point in the northeast corner of lands conveyed to The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,
- 2) Southerly at right angles to the west line of Liberty Street, a distance of xxx feet to a point,
- 3) Westerly at right angle, a distance of xxx feet to a point in the east line of lands conveyed to The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,
- 4) Southerly along the aforesaid west line of 124-126 Liberty Street The City Church, Inc., a distance of XXX feet to a point in the south line of 124-126 Liberty Street owned by The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,
- 5) Westerly at a right angle along the south line of lands that belong to The City Church, Inc. at 122-124 Liberty Street, a distance of xxx feet to a point,
- 6) Northerly at right angle, a distance of xxx feet to the point in the north line of 7 Pringle Avenue owned by Mark Adams by deed recorded in the G.C.C.O., Liber 704 of Deeds, Page 276
- 7) Westerly at right angle, a distance of xxx feet to a point in the east line of lands conveyed to The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913,

- 8) Northerly at right angle and continuing northerly and along the west side of The City Church, Inc. by deed recorded in the G.C.C.O., Liber 920 of Deeds, Page 913 a distance of xxx feet to the point and place of beginning.

**A MEETS AND BOUNDS DESCRIPTION SHALL BE PROVIDED BY
THE PETITIONER PRIOR TO ADOPTION**

INTENDING to describe parcels of land designated as #42 Central Avenue, #110 Liberty Street, 112-116 Liberty Street, 118-120 Liberty Street, 122 Liberty Street and #122-124 Liberty Street, City of Batavia, being further identified as SBL #084.066-1-47, SBL #084.066-1-11, SBL #084.066-1-12, SBL #084.066-1-13, SBL #084.066-1-14, and SBL #084.066-1-16.

The Zoning Ordinance of the City of Batavia, New York, dated and adopted July 25, 1973, and the Zoning Map of the City of Batavia, New York, dated and adopted September 24, 1973 (Said map being part of said Ordinance), as amended, are hereby further amended for the purpose of re-zoning the premises described above from a R-3 Residential to a C-3 District:

SECTION 2. EFFECTIVE DATE

This Ordinance shall take effect immediately after the date of passage and in accordance with law.