

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2024 - 22

BEING A BY-LAW TO ADOPT A WORKPLACE VIOLENCE AND HARRASSMENT POLICY

WHEREAS Section 32 of the Occupational Health and Safety Act, R. S. O. 1990, c. O.1, as amended, requires that an employer prepare policies and programs with respect to workplace violence and harassment;

AND WHEREAS Section 9 of the *Municipal Act, S.O. 2001, Chapter M.25*, as amended, gives a municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 10(2)(1) of the *Municipal Act, S.O. 2001, Chapter M.25*, as amended, a single-tier municipality may pass By-laws respecting to the governance structure of the municipality and its local boards;

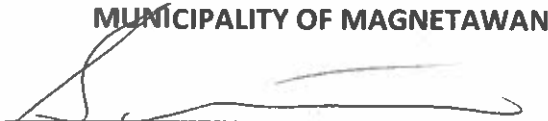
AND WHEREAS the Corporation of the Municipality of Magnetawan is committed to the health, wellbeing, and safety of its workers and to providing a work environment in which all workers are treated with respect and dignity.

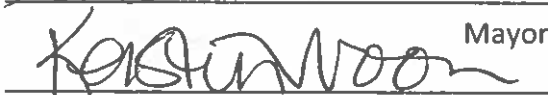
NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan enacts as follows:

1. THAT the Magnetawan Workplace Violence Policy (Schedule "A") be adopted as attached.
2. THAT By-law 2016-48 and any other previously relevant by-law(s) be hereby repealed effective the date of passing of this By-law.
3. THAT this By-law shall come into force and effect on the date of its passing.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 22nd day of May, 2024.

THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN



Mayor


CAO/Clerk



Municipality of Magnetawan

Harassment and Violence in the Workplace Policy

SCOPE AND PURPOSE

Introduction

The Corporation of the Municipality of Magnetawan is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization. It is the Municipality's goal to provide a healthy and safe work environment that is free of any form of harassment or violence. This policy will provide information and procedures to ensure that the Municipality's environment is free from violence, discrimination, and harassment. The Policy defines the types of behaviour that constitute violence, discrimination, and harassment and defines the responsibilities of each Municipal employee.

Scope

This Policy applies to all employees of the Municipality, as well as members of Council, volunteers, committee/board members and students (each deemed to be an "employee" for this purpose). Contractors, consultants, sales representatives, delivery personnel, and any other individuals conducting business with the Municipality are expected to adhere to this Policy in the course of their interactions with Municipal employees. It applies to any location in which a person is engaged in work-related activities on behalf of the Municipality. This includes, but is not limited to:

- the workplace and/or jobsite
- during work-related travel
- at restaurants, hotels or meeting facilities that are being used for business purposes
- in company owned or leased facilities
- during telephone, email, or other communications
- at any work-related social event, whether it is municipally sponsored or not

DEFINITIONS

Discriminatory Harassment

Discriminatory harassment includes engaging in a course of vexatious comment and/or conduct based on the protected grounds in the *Human Rights Code* (hereinafter referred to as the *Code*) that is known or ought reasonably to be known as being unwelcome or that the recipient does not welcome or that offends them.

Some examples of discriminatory harassment include:

- offensive comments, jokes or behaviour that disparage or ridicule a person based on a protected ground, such as race, religion, sex, sexual orientation, gender identity or gender expression
- imitating a person's accent, speech, or mannerisms
- persistent or inappropriate questions about whether a person is pregnant, has children or plans to have children

Workplace Discrimination

Discrimination is defined as any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group based on one or more of the prohibited grounds under the *Code*. Discrimination may arise due to unequal treatment and/or from the same treatment which has an unequal effect on an individual or group protected from discrimination under the *Code*. Properly discharged supervisory responsibilities do not constitute harassment. Performance appraisals, counselling, discipline, and the proper enforcement of high standards are not contrary to this Policy when applied in a non-discriminatory manner.

The prohibited grounds of workplace discrimination include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex (including pregnancy), sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status and disability.

Workplace Harassment and Bullying

Workplace harassment is a health and safety issue that is covered under the *Occupational Health and Safety Act* and is defined as "engaging in a course of vexatious comment and/or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome."

Workplace harassment may have some or all of the following components:

- it is generally repetitive, although a single serious incident may constitute workplace harassment if it undermines the recipient's psychological or physical integrity and has a lasting harmful effect
- it is hostile, abusive, or inappropriate
- it affects the person's dignity or psychological integrity
- it results in a poisoned work environment

Some examples of workplace harassment are:

- engaging in a course of vexatious comment or conduct against a worker in a workplace because of race, religion, sex, sexual orientation, gender identity or gender expression
- verbally abusive behaviour such as yelling insults, ridicule and name calling including remarks, jokes or innuendos that demean, ridicule, intimidate or offend
- gossiping or spreading malicious rumours
- undermining someone else's efforts by setting impossible goals, with short deadlines and deliberately withholding information that would enable a person to do their job
- providing only demeaning or trivial tasks in place of normal job duties

- impeding an individual's efforts at promotions or transfers for reasons that are not legitimate
- making false allegations about someone in memos or other work-related documents

Poisoned Work Environment

A poisoned work environment is a hostile or intimidating work environment created because of the conduct and/or comments that are based on one or more of the prohibited grounds. The conduct and/or comments do not need to be directed at the individual for the individual to be affected by it.

Some examples of actions that can create a poisoned work environment include:

- displaying offensive or sexual materials such as posters, pictures, calendars, web sites or screen savers
- distributing offensive email messages, or attachments such as pictures or video files
- practical jokes that embarrass or insult someone
- jokes or insults that are offensive, racist, or discriminatory in nature

Sexual Harassment

Sexual harassment consists of engaging in a course of vexatious comment or conduct based on sex, sexual orientation, gender identity or gender expression that is known or ought to reasonably be known to be unwelcome, whether intentional or not. Sexual harassment may also include making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to another individual and the person making the solicitation or advance knows or ought reasonably to know that the solicitation or advance is unwelcome. The comments or conduct may be one incident or a series of incidences depending on the context. Sexual harassment is a serious offence but must be distinguished from legitimate workplace or labour relations interactions and consensual workplace relationships.

Some examples of sexual harassment are:

- sexual advances or demands that the recipient does not welcome or want
- threats, punishment, or denial of a benefit for refusing a sexual advance
- offering a benefit in exchange for sexual favour
- displaying sexually offensive material such as posters, pictures, calendars, cartoons, screen savers, pornographic or erotic web sites or other electronic material
- distributing sexually explicit email messages or attachments such as pictures or video files
- sexually suggestive or obscene comments or gestures
- sexual assault

Domestic Violence

Section 32.0.4 of the *Occupational Safety Health and Safety Act* states that if an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker.

This may include some or all of the following:

- creating a safety plan
- contacting the police
- establishing enhanced security measures such as a panic button, code words, and door and access security measures
- screening/redirecting calls and blocking certain email addresses
- facilitating your access to counselling through your Medical Benefits or other community programs

Workplace and Domestic Violence

Violence refers to a broad range of behaviours along a spectrum of severity that can generate concern for personal safety and/or personal injury. At the low end of the spectrum are disruptive, aggressive, harassing or emotionally abusive behaviours that generate anxiety or create a climate of distrust that adversely affects process, productivity, and morale. Further along the spectrum are works or other actions that are reasonably perceived to be hostile, intimidating, frightening, or are acts of overt violence such as assault, pushing, shoving, hitting or physical actions that include weapons and serious physical attacks.

Workplace Violence

Workplace violence is defined under the *Occupational Health and Safety Act* as:

- the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker
- an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker
- a statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker

Workplace violence includes:

- physically threatening behaviour such as shaking a fist at someone, finger pointing, destroying property, throwing objects, wielding a weapon at work
- verbal or written threats to physically attack a worker
- stalking someone
- physically aggressive behaviours including hitting, shoving, standing excessively close to someone in an aggressive manner, pushing, kicking, throwing an object at someone, physically restraining someone or any other form of physical or sexual assault

Violence that occurs outside the normal workplace, but which has an impact on the working environment, including working relationships, may also be considered violence in the workplace.

What Does Not Constitute Harassment

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- imposing discipline for workplace infractions
- requesting medical documents in support of an absence from work

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers.

The Test of Harassment

It does not matter whether you intended to offend someone. The test of harassment is whether you knew or reasonably ought to have known that the comments or conduct were unwelcome to the other person. For example, someone may make it clear through their conduct or body language that the behaviour is unwelcome, in which case you must immediately stop that behaviour.

The harasser does not necessarily have to have power or authority over the recipient for it to be considered harassment. Harassment can occur from co-worker to co-worker, supervisor to employee, employee to supervisor and Councillor to employee.

PREVENTING HARASSMENT AND VIOLENCE

It is our mutual responsibility to ensure that we create and maintain a harassment and violence-free workplace and address violence and/or the threat of violence from all possible sources.

The Municipality of Magnetawan's Commitment

The Municipality will do its part by not tolerating or condoning discrimination, harassment, or violence in the workplace. This includes making everyone in our organization aware of what behaviour is and is not appropriate, assessing the risk of workplace violence, investigating complaints, and imposing suitable corrective measures. It is the responsibility of all Municipal employees to demonstrate respect and understanding to all individuals to prevent discrimination and harassment in the workplace; and to report any instances of discrimination and harassment in accordance with the Complaint Procedure below.

Duties of the CAO/Clerk or Designate

The CAO/Clerk or Designate is responsible for intervening when harassment and discrimination issues occur and is responsible for their own actions and for dealing with the actions of supervisors and employees to ensure that harassment and discrimination are not tolerated, ignored, or condoned; and for investigating any complaints of discrimination or harassment in accordance with the Complaint Procedure set out below.

Duties of Supervisors

Supervisors are expected to assist in creating a harassment-free workplace and to immediately contact the CAO/Clerk or Designate (except in the case when a complaint involves the CAO/Clerk, in which case the Mayor will be the reporting body) if they receive a complaint of workplace harassment or violence or witness or are aware of harassing or violent behaviour.

Supervisors must also take every reasonable precaution to protect employees from workplace violence, including evaluating a person's history of violent behaviour to determine whether and to whom this employee poses a risk.

In certain circumstances, supervisors may have a duty to provide information about a risk of workplace violence from a person with a history of violent behaviour if an employee can be expected to encounter that person during the course of their work, and the risk of workplace violence is likely to expose the employee to physical injury. Supervisors will only release as much personal information about the person with a history of violent behaviour as is reasonably necessary to protect the employee from physical injury.

Duties of All Employees

Employees must do their part by ensuring that their behaviour does not violate this policy and by fostering a work environment that is based on respect and is free of harassment.

Employees are also required to report to their supervisor the existence of any workplace violence or threat of workplace violence.

If a person is critically injured or killed, or if the worker is under the threat of violence, a worker should dial 911 immediately for assistance. The person calling should make sure that they do not put themselves in danger and make the call as soon as it is safe to do so.

Complaint Procedure for Reporting Workplace Violence and Harassment

If you believe you are being harassed, inform the person that the behaviour is unwelcome by verbal or written communication. An individual may or may not realize that the behaviour is offensive. It may be that this action is sufficient to end the behaviour and no further action will be required. If they refuse to cooperate, remind them that such behaviour is against Municipal Policy. On occasion, this may not be possible, and the employee may not feel comfortable with this option. In such cases, the employee should contact their Supervisor, CAO/Clerk or Designate directly and is encouraged to do so promptly.

If you believe that someone who is not an employee of the Municipality of Magnetawan, e.g., a member of the public, supplier or other individual, etc., has harassed or discriminated against you, please report the harassment to your supervisor or the CAO/Clerk or Designate. Although the Municipality has limited control over third parties, we will do our best to address the issue and prevent further problems from arising.

If the complaint cannot be resolved informally or if it is too serious to handle on an informal basis, the CAO/Clerk or Designate should be notified immediately. The CAO/Clerk or Designate acts as the workplace coordinator with respect to harassment and violence in the workplace. Interim measures may be taken depending on the complaint and if safety is a concern individuals will be protected from any reprisal or retaliation for participating in the investigation process.

It is recommended that the Complainant set out their complaint in writing and sign the statement. The complaint ought to include all relevant detail such as:

- name of the employee experiencing the workplace violence or harassment and their contact information (if known)
- dates, frequency, and locations of the incident
- supporting documents, the employee who experienced the workplace violence or harassment may have in their possession
- list of any documents that a witness, another person or the assailant/harasser may have in their possession

An additional interview by the CAO/Clerk or Designate may be required to obtain further detail. The CAO/Clerk or Designate will gather all relevant information, providing both the Complainant and the Respondent with a full opportunity to respond to all the allegations.

It is important that complaints are received as soon as possible so that the problem does not escalate or happen again. Once received, the complaint will initiate a formal investigation, if it is necessary and appropriate to do so.

The investigation process will remain confidential, and disclosures will only be made to the extent necessary to obtain the necessary information to determine whether a breach of this Policy or relevant legislation has occurred.

The CAO/Clerk or Designate will do their utmost to obtain witness statements from all individuals providing information regarding the Complaint. The CAO/Clerk or Designate will also complete a report regarding their findings. This report may be presented to the Mayor and/or Municipal Council if deemed necessary and appropriate in the circumstances. The report will be kept strictly confidential. The investigation outcome will be shared with the Complainant and the Respondent.

Discrimination and harassment are serious matters. A Complainant has a right to withdraw their complaint at any step of the complaint procedure. However, the Municipality retains the absolute right to pursue the complaint and have the complaint investigated and impose discipline if appropriate. Despite any withdrawal of the complaint, the Municipality continues to have an obligation to ensure it has met its obligations under the *Code* and the *Occupational Health and Safety Act*. To this end, the Municipality may be required to continue any investigations until it is satisfied that its obligations have been met.

Investigation Procedure

The CAO/Clerk or Designate will commence an investigation as quickly as possible determining whether to use an internal or external investigator depending on the circumstances of the complaint. If the investigation pertains to the CAO/Clerk the investigation shall be commenced by the Mayor (or designate).

Once the investigation is complete, the investigator will prepare a report of the findings. A summary of the findings may also be provided to the Complainant and Respondent.

Record Keeping

The employer shall keep records of the investigation including:

- a copy of the complaint or details of the incident
- a record of the investigation report including notes
- a summary of the results of the investigation that was provided to the worker who experienced the workplace violence or harassment and the assailant/harasser, if an employee
- a copy of any corrective action taken to address the complaint or incident of workplace violence or harassment

Corrective Action

The CAO/Clerk or Designate will determine what action should be taken as a result of the investigation unless the complaint involves the CAO/Clerk at which time the complaint will be referred to the appropriate party.

The CAO/Clerk or Designate will inform the Complainant and Respondent of the results of the investigation and whether (but not necessarily what) corrective measures were taken, if any were necessary.

If a finding of harassment is made, the Municipality will take appropriate corrective measures, regardless of the respondent's seniority or position in the Municipality.

Corrective measures may include one or more of the following:

- discipline, such as a verbal warning, written warning or suspension without pay
- termination with or without cause
- referral for counselling (sensitivity training), anger management training, supervisory skills training, or attendance at educational programs on workplace respect
- any other disciplinary action deemed appropriate under the circumstances

If it is determined that the complaint was vexatious or made in bad faith, the Complainant may be subject to progressive discipline up to and including termination. Disposition of the complaint is determined with the necessary parties.

Procedures for Addressing Domestic Violence

If you are experiencing domestic violence that would expose you to physical injury in the workplace or you are experiencing workplace violence or believe that workplace violence is likely to occur, you may seek immediate assistance by contacting the CAO/Clerk or Designate. The CAO/Clerk or Designate will assist in preventing and responding to the situation.

The Municipality encourages employees to seek assistance by contacting the CAO/Clerk or Designate if they have a protection order (peace bond or restraining order) that applies to the workplace. The CAO/Clerk or Designate may also be able to provide employees with information or referrals about how to obtain a protection order or assist in its enforcement at the workplace.

Confidentiality

The Municipality acknowledges that allegations of workplace discrimination and harassment involve sensitive disclosures. All complaints of discrimination or harassment (including the identities of the Complainant, the person complained about and any witnesses) will therefore be held in the strictest confidence by all parties except when disclosure is necessary to aid in an inquiry, to take disciplinary action or disclosure is required by law. All complaints shall be dealt with confidentially and objectively, with respect for the rights of all parties involved.

Information collected and retained shall be subject to the *Municipal Freedom of Information and Protection of Privacy Act*, the *Code*, applicable records retention, and rules governing court proceedings, where applicable. Records of complaints, investigation notes and reports shall be held in a confidential manner and will not form part of the employee's file, except where disciplinary action is taken in respect of that person's conduct.

Out of respect for the relevant individuals, it is essential that the complainant, respondent, witnesses, and anyone else involved in the formal investigation of a complaint maintain confidentiality throughout the investigation and afterwards.

Protection from Retaliation

Every Municipal employee has the right to enforce their rights under this Policy, without retaliation or reprisal or threat of retaliation or reprisal, and with the expectation that complaints of workplace discrimination and/or harassment will be appropriately resolved by the Municipality. Retaliation or reprisal, for the purposes of this Policy includes, but will not necessarily be limited to reprisal for having filed a complaint in good faith and having participated in any procedure under this policy.

Application to Services

This Policy applies equally to the provision of services (as contemplated by Section 1 of the *Code*) by employees to non-employees, such as members of the public, volunteers, contractors etc. Employees are expected not to harass or discriminate against non-employees who use the Municipality's services based on any of the prohibited grounds. In the event that a complaint of discrimination and/or harassment is made regarding the provision of services by employees, the above-noted complaint procedure will apply, and employees may be subject to discipline, up to and including termination, should any complaint be substantiated.