

**THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN**

**BY-LAW No. 2011-36**

Being a by-law to adopt a policy for Violence and Harassment in the Workplace

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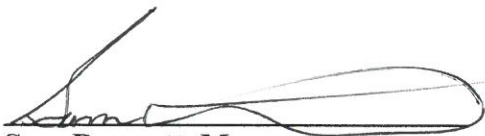
**WHEREAS** the Municipal Act, S.O. 2001, c.25, Part 2, Section 10 permits a municipality to pass by-laws respecting the health, safety and well being of persons;

**AND WHEREAS** the Council of the Corporation of the Municipality of Magnetawan is committed to providing and maintaining a safe and healthy workplace;

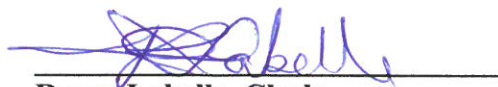
**AND WHEREAS** Bill 168, requires municipalities to adopt a Workplace Violence and Harassment Policy and Program;

**NOW THEREFORE** the Council of the Corporation of the Municipality of Magnetawan do hereby adopt the Violence and Harassment in the Workplace Policy and Program attached hereto as Schedule "A".

**Read a first, second and third time and passed in open Council this 28 day of September 2011.**



**Sam Dunnett, Mayor**



**Roger Labelle, Clerk**

Council MTG. of Sept. 28/11  
Agenda Item # 7.1

# Schedule 'A'

## to By-Law no. 2011-36

### Municipality of Magnetawan

#### Violence and Harassment in the Workplace

##### 1. Policy Statement

The Municipality of the Magnetawan is committed to providing and maintaining a safe and healthy environment in the workplace. A workplace which maintains the dignity and acknowledges the rights of each individual within the organization and ensures that all reasonable measures will be taken to prevent violence and harassment in the workplace.

##### 2. Scope

**This Policy applies to all workers, supervisors, management and Council/Employer.** It applies to all locations in which work related activities are conducted including but not limited to:

- i) the regular place of work,
- ii) other work locations that may be assigned,
- iii) work related travel,
- iv) other facilities at which business is being conducted,
- v) company owned or leased facilities,
- vi) business related telephone calls, emails, or other communications; and
- vii) any work related social event, whether or not it is sponsored by the Municipality of Magnetawan.

This **Policy** serves to provide information to workers, supervisors and management in dealing with situations of violence and harassment in the workplace. It is the responsibility of every individual within the organization to maintain a safe work place and abide by the provisions set out in this policy.

This includes the Mayor and Members of Council, Municipal Staff, Municipal Contractors and Volunteers; it also includes every person that has contact with members of the organization whether they are delivery persons coming into the office or members of the public at large.

Harassment, threats of violence or actual violent acts could come from many sources, which may include other workers, Mayor, members of council, relatives and associates of workers, community volunteers or any member of the public that may come in contact with a person acting on behalf of the Corporation of the Municipality of Magnetawan.

- 3.3 Supervisor** means a person who has charge of a workplace or authority over a worker.
- 3.4 Worker** means any person who is employed by the Municipality of Magnetawan to provide service, or who acts under a contract or in a voluntary capacity under the authority of the Municipality of Magnetawan.
- 3.5 Workplace** means any land, premises, location or thing at, upon, in or near which a worker works.
- 3.6 Work related activities** includes all locations in which work related activities are conducted including but not limited to.
- i) the regular place or work,
  - ii) other work locations that may be assigned,
  - iii) work related travel,
  - iv) other facilities at which business is being conducted,
  - v) company owned or leased facilities,
  - vi) business related telephone calls, emails, or other communications; and
  - vii) any work related social event, whether or not it is sponsored by the Municipality of Magnetawan.
- 3.7 Workplace Harassment** means engaging in a course of vexatious comment or conduct against a worker in a workplace that is know or ought reasonably to be known to be unwelcome.
- 3.8 Workplace Violence** means,
- a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
  - b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker;
  - c) a statement or behavior that it is reasonable for a worker to interpret as a threat to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker.
- 3.9 Clerk** means the Clerk for the Municipality of Magnetawan appointed under the Municipal Act of Ontario.
- 3.10 Investigator** means the Clerk or a designate appointed by Council.

#### 4. Accountability

The Corporation of the Municipality of Magnetawan undertakes to make all individuals within the organization aware of :

- a) their rights and responsibilities under the policy, and
- b) aware of appropriate conduct and acceptable behavior under this policy.

The Corporation will endeavor to do this by providing regular training, assessing risk, investigating issues and complaints, and providing follow up and support.

Council shall maintain a safe work environment by minimizing the potential for violent acts and by investigating and handling all threats and incidence of violence in a timely manner. Procedures for requesting emergency assistance are included in this policy,

Council and Management shall investigate and handle all incidents in a timely and unbiased manner, respecting the privacy of individuals to the extent possible.

Council, Supervisors and Workers are expected to have regard for this policy and participate in its supporting program(s) with respect to:

- i) harassment in the workplace,
- ii) workplace violence between workers,
- iii) workplace violence between workers and members of the public, and
- iv) domestic violence as it is considered to have an effect on safety in the workplace.

**Workers are advised to report all incidents of harassment, violence, or threats  
Violence immediately.**

The Clerk shall act as the coordinator for the purpose of reporting workplace violence and harassment for the Corporation of the Municipality of Magnetawan.

Comments and concerns about this Policy are encouraged at any time.

## 5. Program Provisions

This policy is not intended to limit or constrain the reasonable exercise of typical management functions in the workplace and should not be confused with legitimate, reasonable management actions. These might include measures to correct performance deficiencies, imposing discipline for workplace infractions or programs to manage absenteeism.

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

This policy implements a program to increase awareness and outline steps to be taken in the event of harassment and violence or threats of violence in the workplace.

A **Violence and Harassment in the Workplace Incident Report Form** is available for reporting incidents and to commence an investigation.

**All complaints will be dealt with in a confidential manner.** The person making a complaint concerning workplace violence or harassment as well as the names of parties involved shall be treated as confidential. The Corporation's obligation for disclosure for safety purposes and to conduct an investigation into the alleged complaint may require limited disclosure.

In certain circumstances Management or Supervisors may have a duty to provide information about the risk of workplace violence from a person with a history of violent behavior if workers can be expected to encounter that person during the course of his or her work and the risk of workplace violence is likely to expose the worker(s) to physical injury.

In such circumstances Management or the Supervisor shall only release as much personal information as is reasonably necessary to protect the worker(s) from physical injury.

A third party who witnesses an act of harassment or violence is encouraged to participate in the reporting process as outlined in this policy.

Anonymous complaints will not be acted on, unless there are extenuating circumstances.

## 6. Harassment Procedure

The following procedure shall be followed when dealing with harassment in the workplace.

### 6.1 Verbal Complaint

- i) Prompt communication and/or reporting of all instances of harassment is expected. The situation should be identified and handled at the earliest opportunity.
- ii) Workers are encouraged to resolve the concerns through direct communication with the individual who is engaging in the unwelcome conduct. Where Workers feel confident in doing so, disapproval should be communicated in clear terms to the individual whose conduct or comments are offensive.
- iii) A written account of the date and time along with details of the incident should be retained by the Worker who is making the claim just in case the unwelcome conduct continues and action is required. This written account should not be placed in any personnel files at this point but will be helpful should the conduct continue.
- iv) Where a Worker is not comfortable approaching another Worker, or where the situation is continuing or escalating, the situation should be reported to the immediate Supervisor for assistance.
- v) Should the immediate Supervisor be unavailable, or should such reporting create discord the situation may be reported to any Supervisor for assistance.
- vi) Should it be undesirable, uncomfortable or inappropriate to do so verbal reporting may be foreited and progression to the **Formal Complaint** phase may be initiated.

### 6.2 Formal Complaint

- i) If resolution of a harassment issue through verbal communication is not appropriate or ineffective a formal complaint should be filed. The Incident Report Form (see Appendix "B") shall be used.
- ii) A Complaint Incident Report form should be provided to the Supervisor for submission to the Clerk, or a designate appointed by Council as soon as possible after the incident.
- iii) The Clerk shall respect the confidential nature of the complaint and shall divulge only that information which is necessary to complete the investigation.

## Harassment Procedure continued

### 6.3 Investigation

“All formal complaints shall be investigated by an outside agency or investigator” appointed by Council.

The following procedures will typically be followed. If there is something unusual or unique in the nature of the complaint these procedures may be tweaked to fit the circumstances.

A completed Incident Report shall be submitted to the Clerk as soon after the incident as possible.

- i) The investigation shall commence within three (3) business days of receiving the Incident Report.
- iv) Interviews shall be conducted with all of the parties involved and shall include the complainant, the respondent and any witnesses that have been named or are identified through investigation.
- v) All related documents shall be reviewed.
- vi) Any further investigative procedures that may be required to obtain complete details of the event shall be undertaken by the Investigator.
- vii) Within twenty-one (21) days of receiving the complaint the Investigator shall prepare a written report containing a confidential summary of findings. This report shall be provided to Council along with recommendations for Council’s action.
- viii) Once the investigation is complete individual interview shall be held with both the Complainant and Respondent. A detailed report will be provided to **both** the Complainant and the Respondent and retained in their personnel files.
- ix) Council shall take whatever disciplinary or corrective action is required and this action will also accompany the report in the individuals personnel file.

#### **6.4 Deliberate False Accusations relating to Violence and Harassment**

Deliberate false accusations or vexatious and malicious accusations will result in disciplinary action up to and including termination without notice for just cause.

#### **6.5 Corrective Action**

Disciplinary action for violations of this policy will take into consideration the nature and quality of the act and the impact of the violations on others and the Municipality.

If there is sufficient evidence to support a finding of harassment then corrective action shall be taken.

Corrective action may include one or more of the following:

- verbal warning or written warning,
- suspension with or without pay,
- termination with or without cause,
- referral to counseling e.g. sensitivity training or anger management training, supervisor skills training or attendance at workplace related educational programs,
- any other disciplinary action deemed appropriate

Any unproven allegation does not mean that harassment did not occur or that there was a deliberate false allegation. It simply means that there was insufficient evidentiary value to proceed.

An investigation may also show that the complainant may well have perceived that there was harassment but the investigation has not borne out the complaint.

If there is sufficient evidence to substantiate the complaint then corrective measures shall be taken.

If an individual makes a complaint in good faith and without malice regardless of the outcome of the investigation they will not be subject to any form of discipline.

All forms of disciplinary action taken shall be included in the worker's employment records.



## 7. Violence in the Workplace

### 7.1 Domestic Violence

Violence or threat of violence from relatives or other personal relationships may have the potential to become workplace issues.

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

#### **Domestic Violence in the workplace will not be tolerated.**

Every effort will be made to educate Council, Management, Supervisors and Workers in recognition of the signs of domestic violence in the workplace. *See Appendix A*

Full disclosure of potential for domestic violence is expected. Disclosure of all incidents involving domestic violence will be dealt with on a case by case basis.

Confidentiality and privacy of the victim will be respected and maintained to every reasonable extent. Upon disclosure the victim will be encouraged to work with the immediate Supervisor to implement any procedure necessary to provide safety for all Workers.

Management will work with the victim in contacting professionals for assistance in developing a personal safety plan for non-working times.

### 7.2 Procedures for Summoning Emergency Assistance

Emergency assistance is available by dialing 911 from any telephone.

For all workplaces if a person is critically injured or killed, a worker should dial 911 for immediate assistance. The person calling should make sure that they do not put themselves or others in danger and make the call as soon as it is safe to do so.

All workplaces shall have immediate access to at least one of the following devices:

- phone
- cell phone
- radio or pager
- a security system, or
- a panic button.

### **7.3 Procedure for Non-Emergency Reporting of Violence or Threats of Violence**

**In all cases where you feel that you are in a life threatening situation call 911.**

Communication is a key component of preventing workplace violence. All Supervisors and Managers must ensure that Workers are aware of the potential threats of violence and must act accordingly.

Threatening statements or behavior that gives a Worker reasonable grounds to believe that there is potential for workplace violence must be reported without delay. Every incident must be reported along with the circumstances surrounding the event.

The initial report may be verbal and may be followed up with a letter or a completed Incident Report form. *Attached as Appendix "B"*.

In appropriate circumstances the police and other emergency responders may be contacted to assist, intervene or investigate workplace violence. Procedures for summoning immediate assistance is provided in Section 7.2.

## **8. Investigation Procedure**

- 8.1** All instances of workplace violence or threat of workplace violence are to be reported to a Supervisor. An investigation will commence as quickly as possible.
- 8.2** All complaints shall be treated as serious in nature and will be investigated accordingly. The investigation methods may vary depending on the circumstances and may involve the inclusion of Workers, Supervisors, Management, Council the Ministry of Labour and/or external law enforcement agencies.
- 8.3** The severity of the situation will determine whether or not an outside agency has jurisdiction. In such cases Workers, Supervisors and members of Management and Council shall provide full cooperation.
- 8.4** **In all cases an Internal Investigation will be conducted.** It does not matter who has jurisdiction over the matter the Municipality of Magnetawan shall conduct their own internal investigation with the Investigator.

Circumstances will determine the scope of the investigation.

8.5 An Internal Investigation may require the review of any relevant documents including but not limited to the following:

- e-mails,
- work related documents,
- notes made during the investigation,
- interviews with Workers and Witnesses involved,
- Incident Report(s)
- previous entries into a Workers Employment File.

8.6 Detailed notes of the incident and investigation shall be maintained in a confidential file under the care of the Clerk or the Investigator acting on behalf of the Clerk.

8.7 Once the investigation is complete the Investigator shall prepare a detailed report of the findings. The report shall be provided along with recommendations if any, to Council for action.

8.8 **On completion of the investigation and after the final report is prepared all workers involved in the matter shall be interviewed and be advised of the course of action taken.**

**The appropriate documentation shall be placed in the Workers Employment File.**

## 9. Corrective Action

Council in consultation with the Investigator will determine the action to be taken after reviewing the investigation and reports; regardless of the individuals position, status or tenure with the Corporation.

Prosecution to the fullest extent of the law shall be pursued by Management in protection of Workers where criminal findings are made.

Disciplinary action for violations of this policy will take into consideration the nature and impact of the violation.

If there is sufficient evidence to support findings of workplace violence corrective action shall be taken. Corrective action may include one or more of the following:

- prosecution under the law,
- verbal warning or written warning,
- suspension with or without pay,
- termination with or without cause,

- referral for counseling, e.g. sensitivity training, anger management training, supervisor skills training or attendance at workplace educational programs.
- any other disciplinary action deemed appropriate.

All forms of disciplinary action taken shall be included in the worker's employment records.

## **10. Right to Refuse Unsafe Work**

Workers have the right to refuse to work if there is a reason to believe that workplace violence is likely to endanger them.

A Worker should immediately contact their Supervisor to report a work refusal, at which point appropriate measures will be taken to protect the Worker. The Supervisor shall immediately investigate the situation.

A Worker who has refused work will be moved to a safe place as near as reasonably possible to the work location to be available for investigation purposes.

## **11. Confidentiality of Complaints and Investigations**

All complaints concerning workplace violence, including names, shall be treated as confidential. During the investigation process should management deem it necessary to do so to protect Workers, limited release of information may be required.

Should the investigation findings include evidence of improper conduct resulting in disciplinary action such information shall be included in the Workers Employment Records.

## **12. Protection from Retaliation**

Retaliation or reprisal against any individual who has complained under this policy or has provided information regarding a complaint are prohibited. Any such action will be subject to immediate corrective action, including possible termination.

Allegations of retaliation or reprisal shall be communicated under the workplace harassment policy using the Incident Report form. (*Appendix "B"*)

**13. Posting of Policy**

**A copy of this Policy shall be posted in a conspicuous place which is accessible to all workers in every work location.**

**14. Acknowledgement**

Workers, Supervisors, Council and Management shall review this Policy annually.

Each individual shall provide a signed acknowledgement of same, which shall be retained in the respective Health and Safety Training File.

**15. By-law adopting Policy**

The Corporation of the Municipality of Magnetawan shall pass a By-law to adopt this policy

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## APPENDIX "A"

### Municipality of Magnetawan Violence and Harassment in the Workplace Policy

## RECOGNIZING DOMESTIC VIOLENCE IN THE WORKPLACE

It is in your best interest to be able to recognize the signs of domestic violence. The following are some indicators.

The victim may:

- try to cover bruises;
- be sad, lonely, withdrawn and afraid;
- have trouble concentrating on tasks;
- make excuses or apologies for the abuser's behaviour;
- be nervous when the abuser is in the workplace;
- make last-minute excuses or cancellations;
- use drugs or alcohol to cope; or
- frequently or increasingly miss work.

The abuser may interfere with the victim while at work by:

- making frequent contact by phone, e-mail or in person;
- stalking and/or watching the victim;
- arriving at the workplace and questioning coworkers about the victim;
- displaying jealous or controlling behaviours;
- lying to the victim's coworkers about absence from work;
- threatening coworkers;
- verbally abusing coworkers or victim;
- destroying the victim's or the organizations property;
- physically harming the victim or coworkers;

Additionally, the abuser may attempt to prevent the victim from attending work by:

- hiding, stealing car keys or transportation money;
- hiding or stealing victim's identification, licence;
- threatening deportation where citizenship is an issue;
- failing to show up to provide care and custody of the children;
- physically restraining the victim.

Please refer to [http://www.labour.gov.ca/english/hs/wvps\\_guide/index.php](http://www.labour.gov.ca/english/hs/wvps_guide/index.php) and see the Domestic Violence Section or "Developing Workplace Violence and Harassment Policies and Programs: "What employers need to know".

**APPENDIX "B"**

**Municipality of Magnetawan  
Violence and Harassment in the Workplace Policy**

**INCIDENT REPORT**

**This form to be completed by the complainant**

**Part 1 Complainants Information**

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Main Location of Work: \_\_\_\_\_

**Part 2 General Information About the Incident**

**Type of incident being reported:** Violence/Threat of Violence \_\_\_\_  
Harassment \_\_\_\_

Date of Incident: \_\_\_\_\_ Time of Incident: \_\_\_\_\_ AM/PM

Supervisor to whom incident reported: \_\_\_\_\_

Date and Time of Report to Supervisor: \_\_\_\_\_

Method of Reporting to Supervisor: Verbal \_\_\_\_ Written \_\_\_\_

Location of Incident:(be specific) \_\_\_\_\_

\_\_\_\_\_

Was 911 Emergency Assistance Required: Yes \_\_\_\_ No \_\_\_\_

If Yes Which Emergency Service Responded: \_\_\_\_\_

\_\_\_\_\_

Has a WSIB Reporting form been completed? Yes \_\_\_\_ No \_\_\_\_





**MUNICIPALITY OF MAGNETAWAN**

**WORKPLACE VIOLENCE AND HARASSMENT POLICY**

**CONFIRMATION OF UNDERSTANDING**

I have received a copy of the **Municipality of Magnetawan's Workplace Violence and Harassment Policy** and have read it.

I am aware of the **Municipality of Magnetawan's Workplace Violence and Harassment Policy** and I agree to abide by the terms set out in this Policy.

I understand that if I violate the **Municipality of Magnetawan's Workplace Violence and Harassment Policy** I may be disciplined or dismissed.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

**Note:** This form must be signed and returned to the Clerk.

This Confirmation of Understanding shall remain in your personnel file during the term of your employment with the Municipality of Magnetawan.