

THE CORPORATION OF THE TOWNSHIP OF TARBUTT & TARBUTT
ADDITIONAL
BY-LAW NO 8-2017

BEING a By-law to adopt a policy to comply with The Occupational Health & Safety Act as amended, and Bill 132. Titled: Workplace Anti-Violence, Harassment & Sexual Harassment in the Workplace

The Council of The Corporation of The Township of Tarbutt does hereby enact the Policy on Workplace Anti-Violence, Harassment & Sexual Harassment, attached.

THAT this policy comes into effect upon the passing of this By-Law; and

THAT this policy replaces any and all By-Laws, Polices, Resolutions and amendments to same previously passed for this purpose.

Read a first, second and third time and finally passed this 17th day of May, 2017.

Mayor: _____


Chris Burton

Seal

Clerk: _____


Glenn Martin



**Workplace Anti-Violence,
Harassment, and Sexual
Harassment Policy**

*The Corporation of the Township of
Tarbutt*

Important Disclaimer: this policy complies with the relevant provisions of the *Ontario Health and Safety Act*, RSO 1990, c 0.1 (the "Act"). The Act requires employers to provide training about this policy and how to abide by it. Wishart Law Firm LLP recommends that legal advice be sought before responding to a complaint pursuant to this policy. If you have any questions or concerns about this policy or how to implement it, please contact Wishart Law Firm LLP. Wishart Law Firm LLP is not responsible for the results of any edit to this policy other than as expressly authorized or directed by Wishart Law Firm LLP.

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1. Introduction

The Corporation of the Township of Tarbutt (the "Municipality") Workplace Harassment Policy (the "Policy") includes prohibitions against Workplace Violence, Workplace Harassment and Workplace Sexual Harassment. Creating a violence and harassment-free environment starts with you. You must act respectfully in everything you do. To continue to build trust and respect with those around us, you must report any behavior contrary to this Policy so that the issue can be promptly addressed.

2. Application

This Policy governs Workers, Officials, and to a limited extent, members of the public.

3. Inclusiveness and Social Responsibility

You are expected to be part of creating a respectful Workplace that is free of violence, harassment and discrimination.

3.1. Definitions

"Alleged Aggrieved Person" ("AAP"), means the Worker or Official who has allegedly been the subject of a violation of this Policy.

"Complainant", means the person who has made a report about another individual whom they believe violated this Policy. The Complainant does not have to be the AAP.

"Official" means a person who holds a public office or membership on a Council Committee with the Municipality whether obtained by election or by nomination of Council or the Municipality.

"Respondent", means the person who is alleged to have violated this Policy.

"Worker" means any of the following,

- i. a person who performs work or supplies services for monetary compensation for the Municipality (Note: this would include members of Council).
- ii. a secondary school student who performs work or supplies services to the Municipality for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled.

- iii. a person who performs work or supplies services to the Municipality for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution.
- iv. a person who receives training from the Municipality, but who, under the *Employment Standards Act, 2000*, is not a worker for the purposes of that Act because the conditions set out in subsection 1 (2) of that Act have been met.
- v. such other persons as may be prescribed who perform work or supply services to the Municipality for no monetary compensation.

“Workplace” means, any land, premises, location or thing at, upon, in or near which a Worker or Official works for Municipality including:

- (a) the site where the individuals are customarily employed; and
- (b) all other places which
 - i. result from employment responsibilities or employment relationships, locations at work-related social functions, off-site work assignments, work-related conferences or training sessions, and work-related travel; or
 - ii. affect relationships in the Workplace such as the Internet, including, but not limited to, chat rooms/bash boards, social networking sites, blogs/vlogs, and gaming sites.

“Workplace Harassment” means,

- (a) engaging in a course of vexatious comment or conduct in a Workplace that is known or ought reasonably to be known to be unwelcome; or
- (b) Workplace Sexual Harassment.

Workplace Harassment includes, but is not limited to, any inappropriate conduct, comment, display, action or gesture by an individual that:

- (a) is made on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, nationality, creed, religion, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status, disability, physical size or weight; and
- (b) constitutes a threat to the health or safety of any individual.

(Note: A reasonable action taken by an employer or supervisor relating to the management and direction of Workers in the Workplace is not Workplace Harassment.)

“Workplace Sexual Harassment” means,

- (a) engaging in a course of vexatious comment or conduct in a Workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- (b) making a sexual solicitation or advance where the individual making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Workplace Sexual Harassment may include:

- (a) a direct or implied threat of reprisal for refusing to comply with a sexually-oriented request;
- (b) unwelcome remarks, jokes, innuendos, propositions or taunting about a person’s body, attire, sex or sexual orientation;
- (c) displaying pornographic or sexually explicit pictures or materials;
- (d) unwelcome physical contact;
- (e) unwelcome invitations or requests, direct or indirect, to engage in behavior of a sexual nature; or
- (f) refusing to work with or have contact with individuals because of their sex, gender or sexual orientation.

“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 behaviour that it 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.

3.2. What is Not Covered by this Policy

This Policy does not extend or apply to:

- (a) Reasonable action or conduct that is part of the normal work function, even if in the course of carrying out that function a Worker suffers unpleasant consequences. Examples include changes in work assignments, scheduling, job assessment, and

evaluation/performance management, implementation of any dress code and disciplinary action.

- (b) Harassment that arises out of circumstances unrelated to a Worker's employment not reasonably expected to affect relationships in the Workplace.
- (c) Physical contact necessary for the performance of the work using accepted industry practices.
- (d) Conduct which all parties agree is inoffensive or welcome.

4. Reporting Policy Violations

To uphold our integrity and reputation, you must report any violations of this Policy you experience or witness and which raise concerns about risks to the Municipality. When you make a report, it helps us correct specific problems and identifies areas which require improvement. A Complainant may choose to remain anonymous when making a report. An AAP, however, cannot remain anonymous. Information received anonymously will be reviewed in order to determine if an investigation is warranted.

If you believe that a violation has taken place, report the situation promptly to the Municipality's highest ranking officer (CAO, Clerk or Treasurer). Where the alleged perpetrator is the Municipality's highest ranking officer, all of Council, or a member of Council, you may report the situation to the Municipality's legal counsel:

WISHART MUNICIPAL GROUP
 C/O WISHART LAW FIRM LLP
 390 Bay Street, Suite 500
 Sault Ste. Marie, ON
 P6A 1X2
 P: (705) 949-6700
 F: (705) 949-2465
 E: reportwishart@wishartlaw.com

Where possible, your complaint should be made in writing and include details of:

- What happened – a description of the events or situation
- When it happened – dates and times of the events or incidents
- Where it happened
- Who saw it happen – the names of any witnesses, if any.

When an incident of Workplace Violence is reported, the individual receiving the report will notify police or emergency responders for immediate assistance where necessary.

4.1. No Derogation of Rights

The provisions of this Policy in no way affect the right of any individual to:

- (a) contact the police or other law enforcement agency on their own initiative;
- (b) exercise their right(s) under any legislation including, their right to refuse unsafe work as provided by the Ontario *Occupational Health and Safety Act*; or
- (c) take any other available legal action.

4.2. No Reprisal

You can report any violation of this Policy without fear of reprisal. The Municipality does not permit or condone reprisal against anyone who, in good faith, reports or participates in an investigation of a possible violation of this Policy. Good faith means that you have made a genuine and honest attempt to provide accurate information, even if it turns out you were mistaken.

It is a violation of this Policy to discipline or punish an individual because they have made a report in good faith of any violation of the Policy. Reprisal may be the subject of a report under this Policy, and individuals engaging in reprisal are subject to disciplinary measures, up to and including termination of employment.

4.3. Malicious Reports

If you make a report knowing the allegations in that report are false, you will be subject to appropriate action and possible disciplinary measures up to and including termination of employment with the Municipality.

5. Investigations

All reports of violations of this Policy will be promptly investigated in a manner appropriate in the circumstances.

If necessary, the Municipality may employ outside assistance or consult with the Municipality's legal counsel. When the Municipality's legal counsel is assisting the

Municipality's Clerk, CAO or another Worker, their role is to assist the Municipality and not any particular individual.

In the event of a complaint against an Official, the rules concerning breach of the Municipality's Code of Conduct or other applicable codes or procedures and relevant legislation will apply to any investigation and or disciplinary measure under this Policy.

5.1. *What the Investigation Will Include*

The Municipality's investigation of reported violations of this Policy will include:

- An initial review of the complaint to ensure it is a proper allegation of a breach of this Policy;
- Informing the Respondent of the complaint and disclosing the identity of the AAP to the Respondent;
- Interviewing the AAP, the Complainant (where the Complainant has not chosen to remain anonymous), any person involved in the incident, and any identified witnesses;
- Interviewing any other person who may have knowledge of the incidents related to the report or any other similar incidents; and
- Reviewing any relevant documentation.

Should circumstances warrant, the Respondent's employment with the Municipality may be suspended with pay during all or part of the Municipality's investigation.

Upon completion of the investigation, the Municipality will inform the AAP and the Respondent in writing of the results of the investigation and of any corrective action that has been or that will be taken as a result of the investigation.

5.2. *Corrective Action*

If it is determined that harassment in any form has occurred, appropriate corrective measures will be taken as soon as possible. Possible measures may include:

- a letter of apology or a performance agreement, if the parties will agree to these;
- referral for counselling;
- education and training;
- verbal or written reprimand;
- reprimand, suspension (with or without pay), dismissal, transfer or removal;
- establishing appropriate security measures;

- any other corrective action deemed appropriate under the circumstances.

5.3. Confidentiality

The Municipality recognizes the sensitive nature of harassment complaints and will keep all information related to such complaints or their investigation confidential, to the extent possible. The Municipality will only release as much information as is necessary to investigate and respond to the complaint or situation or if required to do so by law.

Out of respect for the relevant individuals, it is essential that the Complainant, Respondent, witnesses and anyone else involved in the investigation of a complaint maintain confidentiality throughout the investigation and afterwards. Workers are required to maintain confidentiality with respect to the investigation. Breach of confidentiality may result in discipline up to and including dismissal.

5.4. Investigation Records

All records related to meetings, interviews or any part of the investigation will be treated as confidential and shall not be disclosed, except as required by law. All records shall be maintained per the Municipality's Retention By-Law.

6. Assessing the Risks of Workplace Violence

The Municipality will conduct a risk assessment of the work environment to identify any issues related to potential violence that may affect the operation, and will institute measures to control any identified risks to Worker safety. This assessment will take into account:

- (a) circumstances that would be common to similar Workplaces;
- (b) circumstances specific to the Workplace; and
- (c) any other elements prescribed by applicable legislation.

6.1. Communicating the Assessment's Results

Upon completion of the assessment, the Municipality will advise the joint health and safety committee or safety representative, if any, of the results of the assessment and provide a copy if the assessment is in writing. If there is no joint health and safety committee or safety representative, the Municipality will advise Workers of the results of the assessment and, if the assessment is in writing, provide copies on request or advise Workers how to obtain copies.

6.2. Reassessment

The Municipality will reassess the risks of Workplace Violence as often as is necessary, but at least annually, to ensure that this Policy continues to protect Workers from Workplace Violence.

7. Domestic Violence

If the Municipality 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 Municipality shall take every precaution reasonable in the circumstances for the protection of the Worker.

8. Violations of this Policy by Third Parties

This Policy covers Workplace Violence and Workplace Harassment. Customers, clients, contractors or their workers and other members of the public invited to the Workplace could engage in Workplace Violence or Workplace Harassment against a Worker.

The Municipality may have limited ability to investigate or control the conduct of these third parties. However, the Municipality will take reasonable action to stop or reduce the risk to its Workers of violations of the Policy by third parties.

Such action may include:

- (a) posting this Policy in a location visible to third parties; and
- (b) removing third party violators;
- (c) contacting law enforcement; and
- (d) taking legal action against third party violators.

Where a third party engaged in Workplace Harassment has been asked to stop and does not, Workers are authorized to:

- (a) end telephone conversations;
- (b) politely decline service;
- (c) ask the individual to leave the Workplace; and
- (d) seek the assistance of a supervisor or law enforcement.

9. Policy Review

As required by the *Occupational Health and Safety Act*, the Municipality will review this Policy as often as necessary, but at least annually. The Municipality will post the most current version of this Policy in a conspicuous place in the Workplace and/or on its website.

10. Policy Information and Training

The Municipality will ensure all Workers and Officials have read this policy and sign an acknowledgment of same in substantially the form attached to this Policy. Training to enhance understanding of how to prevent and respond to harassment will be conducted by the Municipality at least annual as part of the Policy review. More frequent training may be requested or directed to individuals or groups as required.

[Acknowledgement Form Follows]

Acknowledgment Form

By signing below, I hereby certify that:

- I have received a copy of this Policy
- I have read and will comply with this Policy in its entirety;
- I agree to ensure that Workers working under my direction adhere to this Policy.
- I understand that if I violate the rules set forth by this Policy, I may face disciplinary action up to and including termination of employment.

Name: _____

Signature: _____

Date: _____

Witness: _____

Please return this signed form no later than 30 days from the date you receive a copy of this Policy to your Municipality.

Office use only

Date: _____

By: _____



**Tarbutt Township
Workplace Anti-Violence, Harassment & Sexual
Harassment Policy**

REPORTING FORM

Part 1 - Employee Information (to be completed by employee)		
Name	Department	
Date and time of incident		
Date and time incident reported		
Incident reported to:		
Location of incident (please circle)		
Inside Tarbutt Twp. Building	Outside Tarbutt Twp. Building (specify)	On Tarbutt Twp. Property (specify)
In Parking lot (specify)	Community location (specify)	Residential (specify)
Work location, if off-site		
Were the emergency response procedures initiated? Yes No		
Please circle the classification of the incident (please refer to explanation provided)		
<input type="checkbox"/> Type I (Criminal Intent)	Perpetrator has no relationship to the workplace	
<input type="checkbox"/> Type II (Client)	Perpetrator is a ratepayer, visitor or family member of an employee at the workplace who becomes violent toward a worker or another ratepayer	
<input type="checkbox"/> Type III (Worker-to-worker)	Perpetrator is an employee or past employee of the workplace	
<input type="checkbox"/> Type IV (Personal Relationship)	Perpetrator has/had a relationship with an employee (e.g., domestic violence in the workplace)	
Describe the event including persons involved, and what if known precipitated the event:		
Does the person(s) involved have a history of previous incidents that you are aware of? (please circle) Yes No Don't know		
Incident Type		
<input type="checkbox"/> Threat	<input type="checkbox"/> Physical assault	<input type="checkbox"/> Verbal abuse
<input type="checkbox"/> Discrimination	<input type="checkbox"/> Robbery, arson, vandalism	<input type="checkbox"/> Carrying a weapon
<input type="checkbox"/> Harassment	<input type="checkbox"/> Sexual Harassment	<input type="checkbox"/> Other

Injury Type		
<input type="checkbox"/> Strain or sprain	<input type="checkbox"/> Cut or laceration	<input type="checkbox"/> Contusion
<input type="checkbox"/> Bitten	<input type="checkbox"/> Pinched	<input type="checkbox"/> Psychological
Other (Specify)		
Was medical attention or first aid required? (Circle) Yes No		
If yes, provide details:		
Actions taken		
Please indicate concerns, issues and actions taken (e.g., initiated emergency response procedure, contacted Coordinator, police or security, emergency service personnel, Health & Safety Rep., Human Resources Department, etc.)		
Witness(es)		
Name	Contact information	
1.		
2.		
3.		
4.		
Other Information		
Are you aware of any similar incidents in the past?		Yes No
If yes, provide details:		
Are you aware of any controls, measures or procedures to prevent a similar incident?		Yes No
Please provide any other information you think may be relevant, including any recommendations that you think would be helpful:		
Reporting		
Reported to Supervisor/Councillor?		Yes No
If yes, name of Supervisor/Councillor;		
Reported to police?		Yes No
If yes, police report number		
Reported to Other? (Specify)		Yes No
Signature of worker		

Part 2 - Supervisor Report (to be completed by Supervisor)	
Name	Department
Date reported	Date of investigation
Police contacted? Details:	Yes No
If yes, by whom?	
Health & Safety Representative contacted? If yes, by whom?	Yes No
Human Resources Committee contacted? If yes, by whom?	Yes No
Persons participating in investigation	
Description of findings (Identify immediate cause, underlying cause)	
Witnesses and statements	
Corrective action taken or recommendations for corrective action:	
Post-crisis Intervention	Yes No
Referral to employee assistance program or other community resource?	Yes No
Advised to consult a physician for treatment or referral?	Yes No
Follow-up	
Signature of Supervisor	