

THE CORPORATION OF THE VILLAGE OF MONTROSE

POLICY TITLE: **Respectful Workplace Policy
(Harassment and Anti-Bullying)**

POLICY #2640

POLICY STATEMENT:

It is the policy of the Village of Montrose (the Village) to promote and maintain a workplace in which all employees, elected officials, volunteers, suppliers, contractors and general public act, and are treated with dignity and respect.

The Village is committed to a respectful workplace, free from discrimination, bullying and harassment and sexual harassment. The Village considers workplace discrimination, bullying and harassment and sexual harassment as having serious effects on the work environment, which can lead to adverse job-related consequences for affected persons and for the Village itself. The Village will not tolerate behaviour which may undermine the respect, dignity, self-esteem or productivity of any person(s).

POLICY GOAL:

The goal of this policy is to assist the Village in promoting and maintaining a respectful working environment for all, and has been developed to formalize the responsibility and commitment of the Village to ensure all persons may enjoy a working environment free from all forms of discrimination and bullying and harassment. It recognizes that only by working together and respecting each other, can the Village be successful in achieving its goal of excellence in public service.

POLICY SCOPE:

This policy applies to all employees, elected officials, volunteers, suppliers, contractors, committee members or commissions established by the Village, third party organizations and visitors.

PROCEDURE:

The Policy and Programs outlined in this document are procedures to be followed by the Village if a member of staff feels they are being harassed or bullied in the course of their work or as a result of their employment. Complaints under the policy will be addressed in an impartial, timely and confidential manner.

AUTHORITY:

This policy, in relation to all employees of the Village, will be administered through the Administrative Policy to ensure a Respectful Workplace. This Policy will also be closely followed by all representatives of the Village as specified in the Policy Scope above.

REFERENCES:

Schedule "A" Administrative Policy - Respectful Workplace Policy

Initially approved at meeting #38-13 on December 2, 2013

Approved as amended at meeting #21-16 September 6, 2016

Last reviewed and confirmed unchanged at meeting #28-17, September 5, 2017

Next scheduled to be reviewed on September 4, 2018

SCHEDULE "A"
THE CORPORATION OF THE VILLAGE OF MONTROSE
ADMINISTRATIVE POLICY

1. Purpose:

All employees have a right to enjoy a working environment free from all forms of discrimination and bullying and harassment. The purpose of this policy is to assist the Village of Montrose in promoting and maintaining a respectful working environment for all employees.

2. Policy

- 2.1 The Village is committed to a respectful workplace, free from discrimination, bullying and harassment and sexual harassment. The Village considers workplace discrimination, bullying and harassment and sexual harassment serious in nature and will not tolerate behavior which tends to undermine the respect, dignity, self-esteem or productivity of any employee.
- 2.2. Violations of this policy will be addressed in an impartial, timely and confidential manner. Conduct contrary to this policy will not be tolerated and may result in disciplinary action up to and including termination of employment. Off-duty conduct which has an impact in the workplace *may* be subject to the terms of this policy.
- 2.3. Retaliation or reprisal against anyone who, in good faith reports violation(s) of this policy will be considered in violation of this policy. Retaliation or reprisal is considered to be discriminatory and is subject to disciplinary action by the Village up to and including termination of employment.
- 2.4. Good faith investigations under this policy are not grounds for a bullying and harassment complaint. Where it is determined that a person has made a false allegation or complaint, in bad faith or with the intent to harm another and/or has misrepresented what is going on in the workplace, then formal disciplinary action may be taken against the person. Conduct based on mistakes or misunderstandings shall not constitute malicious conduct.

Nothing in this Policy should be construed as depriving employees covered under the CUPE Local 2087 Collective Agreement, of their rights under the Collective Agreement. The intention is for this policy to work in conjunction with any language on discrimination contained in the collective agreement.

3. **Scope:**

- 3.1. This Policy applies to all employees of the Village and covers all means of communication (verbal, written and electronic). Anyone who feels that they have been treated in direct violation of this policy or who observes violations to this policy should report infractions in accordance with Section 7 of this policy.
- 3.2. Reported incidences of conduct contrary to the policy by persons who are not directly related to the Village (i.e. contractors, consultants, etc.) will be addressed and assessed on a case-by-case basis, and may result in reviewing the contract with the service provider, taking measures to mitigate harm and prevent further misconduct that would otherwise be unnecessary; and potentially, causing harm to the working relationship.

4. **Definitions:**

- 4.1 **"Bullying and Harassment"** refers to any inappropriate conduct or comment by a person towards a worker that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by an employer or supervisor relating to the management and direction of workers or the place of employment.

Bullying and harassment behavior can also refer to any behaviour that tends to disrupt civility and cooperation in the workplace and interferes with efficient and effective work flow, including, without limitation, any inappropriate behaviour in the form of repeated and hostile or unwanted actions, verbal comments, actions or gestures, that could negatively impact the dignity or psychological or physical integrity of an employee or other individual, or that otherwise tends to result in a harmful work environment for the employees.

- 4.1.1 Such behaviour may include, but is not limited to:
 - a) abuse of authority where a staff member uses authority in an unreasonable manner;
 - b) non-constructive criticism addressed in such a way as to intimidate, undermine confidence, or imply incompetence;
 - c) spreading malicious rumors or intentionally conveying false information about another individual;
 - d) breaching the confidentiality of another employee;
 - e) refusal to cooperate with other staff members and employees;
 - f) shouting or yelling;
 - g) using abusive or derogatory language and/or intimidating behaviour;
 - h) threats of violence, retribution, litigation or financial harm; and
 - i) verbal or physical assaults directed at other employees.

- 4.1.2 Disruptive and disrespectful conduct is a serious offence and must be distinguished from an employee's legitimate right to:
- a) express opinions freely and courteously and to support positions whether or not they are in agreement with those of other employees;
 - b) engage in honest differences of opinion with respect to work-related issues that are discussed in appropriate forums;
 - c) engage in good faith constructive criticism of others; and
 - d) comply with professional, supervisory responsibilities to evaluate and report on the performance, conduct or competence of employees.
- 4.2 "**Chief Administrative Officer (CAO)**" is the person appointed by the Council under section 197 of the *Local Government Act*.
- 4.3 "**Complaint**" is the documented report of a violation under this policy.
- 4.4 "**Complainant**" is an individual who informs the Village of an incident, related to themselves, that they believe to be in violation of this policy.
- 4.5 "**Discrimination**" refers to unfair, differential treatment of an individual or group of individuals that is prohibited by law. It may be intentional or unintentional and often stems from prejudice and/or stereotypes. Discrimination can result in one individual or group having an advantage over another. It can cause an individual or group to be excluded from activities, in which they have the right to be included.
- 4.4.1. The BC Human Rights Code protects all from discrimination on the following grounds:
- a) Race;
 - b) Colour;
 - c) Ancestry;
 - d) Place of origin;
 - e) Religion;
 - f) Marital status;
 - g) Family status;
 - h) Physical or mental disability;
 - i) Sex;
 - j) Sexual orientation;
 - k) Age;
 - l) Political belief; or
 - m) Unrelated criminal conviction.
- 4.6 "**Investigator**" is the person assigned to investigate a complaint about bullying and harassment or discrimination. If not the CAO, the Investigator may at the CAO's discretion be an external third party.

- 4.7 **"Supervisor"** is the immediate supervisor of the Complainant, Reporter or Respondent.
- 4.8 **"Mediation"** is a voluntary process used to resolve conflict by having a professional and neutral third party help the disputing parties arrive at a mutually acceptable solution.
- 4.9 **"Reporter"** is someone who informs the Village of an incident, related to another employee, believed to be in violation of this policy.
- 4.10 **"Respondent"** is an individual against whom an allegation(s) of conduct contrary to the policy have been made and who is responding to the allegations made in the complaint.
- 4.11 **"Sexual Harassment"** refers to unwelcome conduct that is sexual in nature which tends to result in a damaging effect on the work environment or lead to adverse job-related consequences for the victim of the harassment. The term of "sexual harassment" is not meant to apply to social relationships between employees based on mutual consent. Individuals' conduct and comments should reflect mutual respect as normal standards of conduct for the workplace.
- 4.12.1. Examples of Sexual Harassment include, but are not limited to:
- a) A person in authority asking an employee for sexual favours in return for being hired or receiving promotions or other employment benefits,
 - b) Unwelcome remarks, questions, jokes, innuendo of a sexual nature including sexist comments or sexual invitations;
 - c) Leering, staring or making sexual gestures;
 - d) Unwanted physical contact such as touching, patting, pinching or hugging;
 - e) Verbal abuse, intimidation or threats of a sexual nature;
 - f) Sexual advances with actual or implied work-related consequences,
 - g) Inquiries or comments about a person's sex life or sexual preference,
 - h) Display of pornographic or other sexual materials, or
 - i) Offensive pictures, graffiti, cartoons or sayings.
- 4.12 **"Supervisor"** is the immediate supervisor of the Complainant, Reporter or Respondent.
- 4.13 **"Village"** is the Village of Montrose.

5. Responsibility:

Every employee of the Village is responsible for conducting herself/himself within the spirit and intent of this Policy as well as contributing towards a safe, welcoming

and inclusive work environment, free from discrimination, sexual harassment, and disruptive and disrespectful conduct. Additionally, all incidents of bullying/harassment must be reported immediately to a supervisor verbally and/or in writing. A Workplace Bullying and Harassment Complaint Form (Schedule B) is also recommended to be completed.

- 5.1 **Supervisor Responsibility:** If a supervisor suspects that discrimination or bullying and harassment may be occurring, he/she must take the appropriate action, as per the procedures in section 7, to deal with the concern.
- 5.2 **Employee Responsibility:** An employee who feels subject to, or who is aware of an incident of discrimination or bullying and harassment is encouraged to try and communicate directly with the other individual(s) involved and advise him/her that the behavior is unwelcome. If an individual does not feel able to communicate directly with the other person involved, he/she should file a complaint.

6. Confidentiality:

- 6.1 The *Freedom of Information and Protection of Privacy Act* governs rights to privacy and access to information with respect to complaints under this Policy. The investigation of complaints will be conducted with discretion and inappropriate breaches of confidentiality may be subject to discipline. To protect the interests of the parties involved, every reasonable effort will be made to maintain confidentiality throughout the process. Information relating to the complaint will only be disclosed to the extent necessary to carry out these procedures. Individuals consulted will be cautioned not to discuss the issue or disclose that a complaint has been made and is being investigated. All parties will be given the opportunity to present evidence in support of their positions and to defend themselves against allegations of misconduct under this Policy.

7. Complaint Procedure:

- 7.1 All reports of discrimination, sexual harassment, and disruptive and disrespectful conduct will be taken seriously. Employees should report any behaviour which they believe constitutes a violation of this policy immediately.
- 7.2 Complainants are encouraged to make known to the alleged harasser(s) directly that their conduct is unwelcome and that it should cease immediately. If this is not successful in stopping the behaviour or if the complainant is uncomfortable doing this, then he/she may proceed with the following steps.

7.3 Step 1 - Informal Complaint

This process is an avenue to obtain information, voice a concern and develop a means to deal with the problem with the help of the Village.

7.3.1 An employee who considers that he or she has been subjected to a violation of this policy may initially choose a representative, who maybe a union representative, an immediate supervisor, or another individual of their choosing.

7.3.2 Discussions regarding the employee's concerns will be treated confidentially and informally. The policy and procedures will be outlined and various choices discussed to assist the employee in deciding which course of action is most appropriate. Some actions are:

- a) direct discussion with alleged harasser, with or without job stewards support;
- b) begin a formal investigation;
- c) further consideration of course of action; and
- d) suspend or stop the process.

7.3.3 Formal complaints may be the initial step of the process if an employee is not receptive to an informal approach.

7.4 Step 2 - Formal Complaint

7.4.1 A formal complaint can be made when informal approaches have not resolved the problem and/or the concerned employee wishes a formal investigation to be conducted. Formal complaints should be made in writing and use the Workplace Bullying and Harassment Complaint Form shown in Schedule B.

7.4.2 The initial contact for a formal complaint (supervisor, or other person) is responsible to ensure that the CAO is notified. It is the responsibility of the CAO to initiate an investigation and to provide recommendations for resolution. Investigations will involve the completion of a Workplace Anti-Harassment and Anti-Bullying Investigation Form as shown in Schedule C.

7.4.3 A formal complaint will follow the process outlined below:

Investigation Process:

a) **Fact finding** - The investigator will conduct a background and/or document review and complete interviews with relevant parties to clarify the details and provide additional information about the incident. Both parties will have opportunity to identify witnesses or others to be interviewed. Co-workers may be interviewed where witnesses are not available. All interviews will be conducted in a

confidential manner which respects the individual's rights and the work environment. The investigator will document all information gathered from all sources and provide results/conclusions of the investigation.

- b) *Preliminary Resolution*** - At any time during the course of the investigation, the investigator and the parties may reach resolution or settlement of the matter, in which case the investigator may propose that the investigation be discontinued.
- c) *Notification and Discussion of Results*** - At the conclusion of the investigation, the investigator will discuss the results with the parties, Supervisor, and/or CAO, as necessary.
- d) *Results of Investigation*** - The investigator will submit a written report to the CAO outlining facts, issues and recommendations and details of the resolution if applicable.
- e) *Final Resolution*** - If a resolution has not been reached the CAO will decide the matter. The parties will have access to the grievance process through their Collective Agreement, where applicable.

Results of the Investigation:

- a) *Report Supported*** - Remedial action in all cases is intended to be appropriate to the situation and the following are examples of actions that may be taken:
 - disciplinary action up to and including dismissal;
 - education and training;
 - review and modification of policies, procedures and practices;
 - ongoing monitoring; and
 - any other strategy designed to eliminate/prevent bullying and harassment.
- b) *Report Unsupported*** - where the results of an investigation do not support the specific complaint, no further action will occur.
- c) *Malicious Reports*** - Where, as a result of the investigation, it is determined that an employee has initiated this procedure with directed and specific intent to harm or in bad faith with reasonable knowledge of intent to harm, then formal disciplinary actions may be taken against the employee involved.
- d) *Follow-Up*** - In most cases a follow up should occur periodically over a minimum period of six months.

Appeal Process:

- a) **Appeal Request** - Should either party wish to appeal any outcome of the investigation, they are free to do so. An appeal must be made in writing without unreasonable delay and no later than 30 days after the final resolution.
- b) **Supported Documentation** - Full details on the reason for appealing must be provided and must clearly explain why there is a disagreement on the decision.
- c) **Appeal Meeting** - An appeal meeting will be arranged to discuss the appeal request, and where possible, other participants may be included in this meeting (i.e. unbiased third party, union, etc.).
- d) **Final Decision** - A final decision will be provided in writing to all parties immediately after completion of the review activities. However, every effort must be made to follow the current corrective actions while the appeal process is being conducted.

7.5 Where the CAO is the alleged bully, the Mayor, or a designated representative of Council will assist in receiving / following-up on incidents and/or reports.

7.6 Where an Elected Official is the alleged bully, the CAO or his/her designate will assist in receiving / following up on incident and/or reports.

8. Other Remedies:

8.1 This policy is in addition to and not in substitution of rights that all individuals have under the *British Columbia Human Rights Code*. In addition, employees of the Village who are members of the bargaining unit may access the grievance procedure.

8.2 Where a complaint is substantiated, an appropriate remedy will be assessed on a case by case basis. This may include corrective action such as education, training, mediation, temporary or permanent changes to reporting structures or work assignments and discipline up to and including termination of employment.

9. Corrective Action and Discipline:

9.1 Where a complaint of bullying and harassment is substantiated, the harasser may be subject to corrective or disciplinary action, up to and including dismissal.

9.2 No record of complaint of discrimination or bullying and harassment will be noted in employee personnel files, except in the case where discipline has

been imposed. In cases where discipline has been imposed, a copy of the disciplinary letter will be placed in the employee's personnel file for a period of time in accordance with the Collective Agreement.

10. Complaints involving members of the public, suppliers and others:

Complaints regarding bullying and harassment by a member of the public, supplier, contractor or anyone other than an employee of the Village should be directed to the appropriate Supervisor. The Supervisor will notify the CAO who will assist in resolving the matter to the extent appropriate to the circumstances.

11. Time Limits:

All complaints will be taken seriously and acted upon in a timely manner, where possible the investigation and outcomes shall be complete within twenty (20) working days from date of complaint being filed. An extension may be granted based upon mutual agreement with the parties involved.

12. Training:

Training for all Village employees will include participation in courses and/or workshops on how to recognize respond and report on incidents and/or complaints with respect to bullying and harassment. Training will occur as required and will be included during initial orientation of new employees.

13. Record Keeping:

The Village expects that employees experiencing or witnessing suspected/alleged bullying and harassment activities to complete the Workplace Bullying and Harassment Complaint Form (Schedule B). The Village will keep all records pertaining to investigations and findings in a secure and confidential manner.

14. Authority to Act:

The Authority to act resides with the Chief Administrative Officer, or his/ her designate in their absence.

**SCHEDULE "B"
THE CORPORATION OF THE VILLAGE OF MONTROSE**

WORKPLACE BULLYING AND HARASSMENT COMPLAINT FORM

COMPLAINANT INFORMATION

NAME: _____ **POSITION:** _____ **DATE:** _____

RESPONDENT INFORMATION (ALLEGED BULLY/HARASSER)

NAME(S): _____

POSITION/RELATIONSHIP: _____

PERSONAL STATEMENT

Please provide details on the bullying and harassment incidents / activities, including names of parties involved, date, time, location, details specific to the incident, witnesses, and all other pertinent information. Please attach any supporting evidence to be used for investigation purposes and/or additional pages as necessary.

Received by: Name/Position _____

Date: _____

**SCHEDULE "C"
THE CORPORATION OF THE VILLAGE OF MONTROSE**

**WORKPLACE ANTI-BULLYING AND ANTI HARASSMENT
INVESTIGATION FORM**

INVESTIGATOR INFORMATION

NAME: _____ **POSITION:** _____ **DATE:** _____

DOCUMENT REVIEW

List all documentation reviewed (include file#, emails, photographs, physical evidence, etc.)

INTERVIEW(S) CONDUCTED

Person Interviewed: (Name, Position, Date) _____

Situation Description (include specific details, impact of event, etc.)

Person Interviewed: (Name, Position, Date) _____

Situation Description (include specific details, impact of event, etc.)

OUTCOMES

Based on the investigation, did workplace bullying and/or harassment occur?

Yes / No

Reasons for this conclusion:

FOLLOW-UP

Include discussions with complainant/respondent, corrective actions, time frame, training opportunities, etc.

