

TOWN OF ARBORG
By-law No. 3-2020

**Being a By-law of the Town of Arborg to Establish a
CODE OF CONDUCT FOR COUNCIL MEMBERS**

WHEREAS under Section 84.1(1) of *The Municipal Act* M225, a council must establish, by by-law, a code of conduct that applies to the members of council and

- a) must establish the process for dealing with contraventions to the code, including the procedures for receiving reports of contraventions;
- b) must set out the sanctions that may be imposed on a member or the remedial measures that a member may be required to take if they are found to have contravened the code;
- c) must comply with the requirements of provincial regulations concerning codes of conduct;

AND WHEREAS the public is entitled to expect the highest standards of conduct from the members elected to council for the Town of Arborg;

AND WHEREAS the Town of Arborg recognizes public confidence and trust are essential to good governance, and therefore is committed to fostering and maintaining the highest standards of professionalism and ethical conduct among its council members;

AND WHEREAS the Town of Arborg deems this by-law to be advisable, in the public interest and aligned with municipal purposes of promoting good government.

NOW THEREFORE the Council of the Town of Arborg in open session assembled, enacts as follows:

SHORT TITLE

1. This By-law may be cited as the **Code of Conduct By-law**.

DEFINITIONS

2. In this by-law,

“**Act**” or “**Municipal Act**” means *The Municipal Act* of Manitoba, C.C.S.M. c. M225, and associated regulations, as amended;

“**administration**” means the administrative and operational arm of the municipality, comprised of the various departments, including all employees;

“**Appeals Director**” means the same as defined in the *Council Members’ Codes of Conduct Regulation*, in effect November 1, 2020

“**CAO**” means Chief Administrative Officer of the municipality, or their delegate;

“**complainant**” means the person who commences a complaint or on who’s behalf a complaint was commenced;

“**council**” means the elected members of the Municipality

“**employees**” means any person employed by the municipality, and includes the CAO, designated officers, full-time, part-time, contract, or casual employees, including volunteers;

“**investigator**” means a committee of council or a third party appointed by council to investigate a complaint and recommend sanction(s);

“**member(s)**” means the councillor(s), including the head of council;

“**municipality**” means the Town of Arborg; and

“**respondent**” means the person against whom a complaint is commenced.

PRINCIPLES

3.0 The council has a duty to consider the well-being and best interests of the municipality as a whole. All members must conduct themselves in such a way as to promote public trust and confidence in the council and the municipality.

3.1 It is each member’s individual responsibility to uphold both the letter and the spirit of this code of conduct By-law.

PURPOSE

4. The purpose of this code of conduct by-law is to establish:
 - a. the standards and values that council members must uphold in carrying out their duties under *The Municipal Act* or any other relevant legislation;
 - b. the application and enforcement of those standards and values;

- c. the sanctions available to address code of conduct violations; and
- d. procedures for updating the code of conduct.

RULES FOR INTERPRETATION

5. This code of conduct by-law is intended to supplement any other legal duties imposed on members of council by an enactment of the Parliament of Canada and the Legislature of Manitoba, by-laws, including but not limited to:
- i. *The Municipal Act*;
 - ii. *The Municipal Council Conflict of Interest Act*; C.C.S.M. c. M255
 - iii. *The Human Rights Code*; C.C.S.M. c. H175
 - iv. *The Freedom of Information and Protection of Privacy Act*; C.C.S.M. c. F175;
 - v. *The Workplace Safety and Health Act*; C.C.S.M. c. W210; and
 - vi. *The Criminal Code of Canada*, R.S.C., 1985, c. C-46.

APPLICATION

- 6.0 This code of conduct by-law applies to all members of the council, and their interactions in and outside of the council chambers, including those with:
- a. other council members;
 - b. municipal employees; and
 - c. members of the public.
- 6.1 This code of conduct by-law applies to behaviour that:
- a. reflects negatively on the municipality;
 - b. affects the member's ability to perform their duties effectively;
 - c. affects the ability of other members or employees of the municipality to perform their duties effectively; and/or
 - d. restricts the council or administration's ability to meet operational requirements.
- 6.2 This code of conduct by-law applies to all behaviours and actions connected to the municipality, including but not limited to:
- a. within council chambers;
 - b. conferences, travel and public events;
 - c. online and social media interactions, including but not limited to emails, text messages, Facebook, Twitter and LinkedIn profiles and posts, or
 - d. any activities including those occurring outside of the municipality.

RULES GOVERNING MEMBER CONDUCT

- 7.0 Council has a responsibility to create and maintain an environment that is respectful and free of all forms of harassment, including sexual harassment and bullying.
- 7.1 Council members will demonstrate strong ethical principles, working together to further the best interests of the municipality in a consistent, truthful, respectful, and honourable way.
- 7.2 Council members are expected to:
- a. demonstrate an ability to lead, listen to, and positively influence others;
 - b. demonstrate respect and value the distinct roles and responsibilities others play in creating an accountable and transparent municipal government;
 - c. commit to fostering positive working relationships with other members, employees, and the public; and
 - d. recognize debate is an essential part of the democratic process, participate in constructive conversation, and encourage other members and staff to provide their perspectives on relevant issues.
- 7.3 Council members must:
- a. demonstrate accountability, individually and as part of council as a whole, by accepting responsibility for actions and decisions, including acts of commission and omission; and
 - b. ensure the appropriate use of municipal resources.
- 7.4 Council members must:
- a. demonstrate responsibility by acting in accordance with the enactments of the Parliament of Canada and the Legislature of Manitoba, including *The Municipal Act*; and
 - b. demonstrate responsibility by acting in accordance with the by-laws, resolutions, policies and procedures of the municipality.

7.5 Council members must:

- a. demonstrate respect towards other council members, municipal employees and the public by
 - i. seeking to include rather than exclude,
 - ii. treating every person with courtesy, dignity, and fairness;
 - iii. foster an environment of trust by showing consideration for every person's values, beliefs and contributions, and supporting and encouraging others to participate in council activities;
- b. demonstrate awareness of their own conduct, and how their words or actions may be perceived as offensive or demeaning;
- c. demonstrate respect for the decision-making processes of the municipality, accepting a decision is that of council as a whole and make every effort to accurately communicate that decision;
- d. demonstrate respect for the professional capacities of municipal employees, including employees' responsibility to provide unbiased and objective advice without undue influence from any individual member or faction of council;
- e. not attempt to require an employee to undertake personal or private tasks on behalf of a member or council; and
- f. not use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any employee with the intent of interfering with that person's duties, including the duty to disclose improper activity.

7.6 Council members must not harass or bully other members of council, municipal employees or members of the public.

- a. Harassment may be written, verbal, physical, online or electronic, a gesture or display, or any combination of these,
- b. Harassment includes objectionable conduct and bullying.
 - i. Objectionable conduct includes behaviours that create a risk to the health of a member, employee and/or the public
 - ii. Objectionable conduct may be based on any of the following: race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place of origin
 - iii. Bullying behaviours include conduct that adversely affects a person's psychological or physical well-being
- c. Harassment may happen only once or repeatedly.
- d. Conduct is considered severe if it is:
 - i. repeated humiliation or intimidation that adversely affects a person's psychological or physical well-being; or
 - ii. a single instance so serious that it has a lasting, harmful effect on a person.

7.7 Council members must not engage in harassment based on sex, gender, gender identity or expression, or sexual orientation.

- a. Sexual harassment
 - i. Can be sexual in nature, but can also include any form of harassment based on sex, gender or sexual orientation.
 - ii. can refer to behaviour that creates or permits a sexualized or sexually charged atmosphere.
 - iii. may be written, verbal, physical, online or electronic, a gesture or display, or any combination of these.

FORMAL COMPLAINT RESOLUTION PROCESS**8.0 A council member may file a code of conduct complaint, Schedule A, with the CAO if:**

- a. The member believes another member has contravened this code of conduct by-law; and
- b. An informal resolution of the complaint was initiated by the member, but the complaint could not be resolved informally.

8.1 A completed complaint form must be filed with the CAO no later than 30 days after the date the complainant became aware of the conduct giving rise to the complaint unless the complaint involves allegations of sexual harassment.**8.2 Despite clause 8.0(b), an informal resolution of the complaint does not need to be initiated by the complainant prior to filing a code of conduct complaint form with the CAO if the complaint involves allegations of sexual harassment.**

- 8.3** A completed code of conduct complaint form involving allegations of sexual harassment must be filed with the CAO no later than 90 days after the date the complainant became aware of the conduct giving rise to the complaint.
- 8.4** Within 7 days of receiving a completed code of conduct complaint form, the CAO must:
- Forward the completed code of conduct complaint form to a provincially approved third party reviewer for initial assessment; and
 - Notify the respondent and provide them with a copy of the Code of Conduct By-law and the completed complaint form.
- 8.5** The third party reviewer must conduct an initial assessment of the complaint and determine whether the complaint is accepted or whether to recommend the complaint be dismissed.
- 8.6** The third party reviewer may recommend the dismissal of complaints that are frivolous, vexatious, or outside of the scope of the code of conduct by-law.
- 8.7** The third party reviewer must, within 7 days of receipt of the complaint, notify the CAO, the complainant and the respondent in writing, with reasons, of the initial assessment decision.
- 8.8** If a third party reviewer's decision is to accept the complaint, it must proceed to the next phase of the formal complaint resolution process.
- 8.9** If a third party reviewer's decision is to recommend dismissing the complaint, the initial assessment decision and reasons must be put before council to review under Committee of the Whole of the next scheduled council meeting, where council must resolve to:
- Accept the third party reviewer's recommendation to dismiss the complaint and close the file; or
 - Decline the third party reviewer's recommendation to dismiss the complaint and permit the complaint to proceed to the next phase of the formal complaint resolution process.
- 8.10** Costs of the initial assessment conducted by a third party reviewer are the responsibility of and must be paid by the municipality.
- 8.11** Upon a complaint being accepted the CAO must inform the complainant and the respondent of the option to proceed to mediation as a voluntary process to attempt resolution
- 8.12** If both the complainant and the respondent agree to proceed to mediation, the parties must jointly select a mediator. If the parties cannot agree on the choice of mediator, or if the selected mediator is not available to commence the mediation within 30 days, the CAO must select a mediator from a provincially provided list of mediators based on provincially provided criteria.
- 8.13** Costs of the mediation process are the responsibility of and must be paid by the municipality.
- 8.14** If the mediator concludes at any time that a mediated resolution of the complaint is not possible, the mediator must return the file to the CAO for the complaint to proceed to investigation. The mediator will not provide any report or assessment on the issue.
- 8.15** If a complaint is settled on terms satisfactory to the complainant and the respondent, the complaint file is closed.
- 8.16** If the complainant and the respondent do not agree to mediation or a mediated resolution is not possible, the complaint must proceed to investigation.
- 8.17** Subject to section 8.18 a committee of council or a third party may conduct a code of conduct complaint investigation.
- 8.18** If either the complainant or the respondent indicates they want a third party to conduct the investigation, a third party must conduct a code of conduct complaint investigation.
- 8.19** If a third party investigator is used, the complainant and respondent must jointly select an investigator. If the parties cannot agree on the choice of investigator, or if the selected investigator is not available to commence the investigation within 30 days, the CAO must select an investigator from a provincially provided list of investigators based on provincially provided criteria.

8.20 Costs of an investigation are the responsibility of and must be paid by the municipality.

8.21 The investigator must provide the CAO, the complainant and the respondent with a report summarizing the findings of their investigation into contraventions of the code of conduct by-law and, in accordance with section 10, recommend sanction(s) where appropriate.

COUNCIL REVIEW AND VOTE

9.0 Council must review and consider an investigation report under Committee of the Whole of the next scheduled council meeting after receiving the investigation report.

9.1 When the review is finished, council must re-open the meeting to the public and hold a vote to determine if the member breached the code of conduct by-law and the appropriate sanction(s), if any.

SANCTIONS

10.0 Council must consider the following factors when determining to impose a sanction on a member:

- a. The nature of the code of conduct contravention;
- b. The length or persistence of the code of conduct contravention;
- c. If the member knowingly contravened the code of conduct;
- d. If the member took steps to mitigate or remedy the code of conduct contravention;
- e. If the member previously contravened the code of conduct.

10.1 Council may impose only the following potential sanctions:

- a. Censuring the member;
- b. Reprimanding the member;
- c. Requiring the member to issue a letter of apology within 30 days after being directed to do so;
- d. Requiring the member to attend training as directed by council;
- e. Suspending or removing the member's presiding duties under subsection 83(2) of The Municipal Act, if applicable;
- f. Suspending or removing the member as the deputy head of the council, if applicable;
- g. Suspending or removing the member as chair of a committee, if applicable;
- h. Suspending or removing the member from any or all council committees or bodies on which the member serves;
- i. Suspending the member from carrying out a power, duty or function as a member for a period not exceeding 90 days;
- j. Reducing or suspending the member's compensation for the duration of any suspension imposed under clause (i);
- k. Imposing a fine of not more than \$1,000, to be paid within 30 days after being imposed.

10.2 If sanctions are imposed, a sanctioned member must be provided with a copy of the resolution authorizing the sanction as soon as practicable after the council meeting at which the resolution was passed.

10.3 A council member who does not comply with or complete a sanction in the time period required by the council may not carry out a power, duty or function as a member until they do so.

APPEALS

11.0 A council member may appeal a sanction solely on the basis that their conduct did not contravene the Code of Conduct By-law.

11.1 To appeal a sanction, a council member must file a Notice of Appeal form, include a statement setting out the reasons for the appeal and an optional written submission (5 pages maximum) with the Appeals Director.

11.2 Appeals must be filed using the standardized Notice of Appeal form within 30 days after the sanction is imposed. The filing of an appeal stays the sanction pending the resolution of the appeal.

11.3 In responding to an appeal, council is required to follow the steps prescribed in the *Council Members' Codes of Conduct Regulation*, in effect November 1, 2020.

11.4 The council member may provide to the Appeals Director a written response to the municipality's submission within 15 days after receiving it. The member's response must address only the matters raised by the municipality in its submission.

11.5 As soon as practicable after receiving all possible submissions from the parties, the Appeals Director will make a written decision and provide the parties with a copy of the decision.

11.6 When deciding an appeal, the Appeals Director may confirm the council's sanction or overturn it.

11.7 A decision made by the Appeals Director is final and is not subject to appeal.

REVIEW AND REVISION OF THE CODE

12. Council must review this code of conduct By-Law annually to ensure it effectively meets its needs.

SEVERABILITY

13. If any provision of this by-law is held to be invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

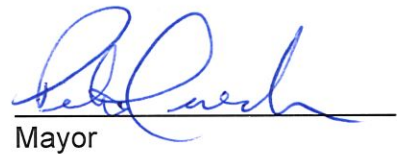
DOCUMENTS

14. The Documents hereto attached:

- 1) Schedule A – Complaint Form

15. This By-law Repeals *Council Members' Code of Conduct*, Town of Arborg Policy 1-2013.

DONE AND PASSED as a by-law of the Town of Arborg at Arborg in the Province of Manitoba this 28th of October, 2020.



 Mayor



 Chief Administrative Officer

Read a first time this	23 rd	day of	September	A.D.	2020
Read a second time this	14 th	day of	October	A.D.	2020
Read a third time this	28 th	day of	October	A.D.	2020