

MUNICIPALITY OF BOISSEVAIN-MORTON

BY-LAW 2020-07

BEING A BY-LAW OF THE MUNICIPALITY OF BOISSEVAIN-MORTON TO ESTABLISH AND REGULATE A CODE OF CONDUCT FOR MUNICIPAL EMPLOYEES

WHEREAS A written Code of Conduct helps to ensure that employees, members of Council and members of the public share and understand a common basis of acceptable conduct for Municipal employees,

WHEREAS under *section 131.1 (1) of The Municipal Act* a council must establish a code of conduct for employees of the municipality;

AND WHEREAS under *section 131.1 (2) of The Municipal Act* the code of conduct for employees of the municipality must include conflict of interest rules;

AND WHEREAS the Municipality of Boissevain-Morton is committed to fostering and maintaining the highest standards of professionalism and ethical conduct among its employees;

THEREFORE BE IT RESOLVED that the Municipality of Boissevain-Morton, in the Province of Manitoba, enacts as follows:

1. The Municipality of Boissevain-Morton is hereby authorized to implement the Municipality of Boissevain-Morton Municipal Employee Code of Conduct, which is attached hereto and forming part of this bylaw, and identified as Schedule 1 for the purpose of providing the Municipality's expectations and appropriate workplace behaviour from its employees.
2. The CAO and Council of the Municipality of Boissevain-Morton are hereby authorized to sign and execute the attachment agreement identified as Schedule 1.

SHORT TITLE

1. This By-law may be cited as the "Code of Conduct for Municipal Employees".

PURPOSE

A written Code of Conduct helps to ensure that employees, members of Council and members of the public share and understand a common basis of acceptable conduct for Municipal employees.

Employees shall conduct themselves with integrity by performing their duties with transparency, impartiality, respect and accountability.

These standards are designed to provide a reference guide and a supplement to the legislative parameters, municipal policies and by-laws within which employees must operate and within which employees must conduct themselves.

The standards should serve to enhance public confidence that appointed representatives and employees operate from a basis of integrity, justice and courtesy. This Code is not intended to replace the use of common sense, personal ethics, or morals.

DEFINITIONS

For the purpose of this by-law, the definitions included are as follows:

- **“Chief Administrative Officer (CAO)”** means the Chief Administrative Officer of the Municipality, or their delegate;
- **“Civil”** means adequate in courtesy and politeness or mannerly;
- **“Confidence”** means the feeling or belief that one can rely on someone or something or a firm trust;
- **“Condescending”** means acting in a way that betrays a feeling of patronizing superiority;
- **“Confidential information”** includes information in the possession of the municipality that the municipality is either prohibited from disclosing under the rules of the Municipal Act or other legislation, or is required to refuse to disclose under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), or other legislation.
- **“Decorum”** means propriety and good taste in conduct or appearance;
- **“Employee(s)”** means direct employees of the Municipality of Boissevain-Morton whether full-time, part-time, contract, or casual (including students or volunteers);
- **“Municipal Property”** includes real property (such as land or interests in land), personal property (such as goods and equipment) and other property interests of any kind;
- **“Outside Activities”** are private activities that are not part of an Employee’s assigned work and are not part of their job;

- **“Patronizing”** means to treat with an apparent kindness that betrays a feeling of superiority;
- **“Workplace”** means any premises (whether owned by the Municipality or otherwise) where the business of the Municipality is being transacted, including vehicles, conference centres, motels/hotels and/or restaurants;
- **“Wrongdoing”** means any of the following actions taken by any Municipal Employee:
 - * A contravention of any Municipal By-Law or policy, or any Act of Parliament or the Legislature of Manitoba, or under regulations made under any such act, if the contravention relates to the official duty of the Municipal Employee, or any public funds;
 - * A misuse of municipal funds or municipal assets
 - * Gross mismanagement of a municipal project or undertaking;
 - * Taking any act of reprisal against a Municipal Employee who has disclosed a wrongdoing

APPLICATION

This Code of Conduct shall apply to all Municipal employees in their dealings amongst themselves, with members of Council, and with members of the public—including all clients, vendors, and suppliers.

RULES GOVERNING EMPLOYEE CONDUCT

1. The Municipal Code of Conduct for Employees governs the actions of all employees of the Municipality of Boissevain-Morton while in the workplace and performing the duties of their jobs or acting on behalf of the Municipality.
2. Actions taken by employees outside their employment are not governed by this Municipal Code of Conduct unless the employee is speaking against decisions and/or policies of Council. No municipal employee or appointed official represents the Municipality outside of work hours and should refrain from conducting municipal business while not on the job.
3. Employees are responsible for making honest statements and upholding the integrity of Council and its decisions. No employee shall make a statement with the intent to mislead anyone including Council members, fellow staff members, the media, or the public.
4. Employees shall always refrain from making public statements on Municipal policy and/or Council decisions.
5. It must be recognized that employees are only human and will occasionally make honest mistakes.
6. Employees shall conduct themselves with integrity and ethics. The Code does not have the answers to all questions, however; it is created to ensure that the right questions are asked.

7. While taking any action in the course of employment, each employee shall ask:
 - Am I putting my own interests before those of the Municipality?
 - Would I make the same decision if my manager, a member of the public, my mother, or the media were watching me?
 - Will I owe someone a favour if I do this?
 - Would I be offered this if I weren't an employee of the Municipality?
8. Transparency – As public servants, employees are accountable for what they do and that accountability is ensured by transparency. Employees must be open and honest in dealing with supervisors, the public, and Council. Employees shall not just do their jobs well, but also be open and honest about what they say and do at all times and to all persons.
9. Impartiality – As public servants, employees have to do their jobs with the Municipality's best interests in mind, not their own. Employees shall do their jobs without bias, without favour, without consideration of personal interests or those of family and friends and without allowing outside interests to conflict with work decisions.
10. When buying goods or services, employees shall comply with the Municipality's procurement by-laws and policies.
11. Employees shall remove themselves from decisions that might affect, or might be seen to affect, the interests of other groups or organizations that they participate or are members of.
12. Employees shall not take on other work which:
 - Conflicts with Municipal work hours;
 - Interferes with the efficient performance of employee duties;
 - Competes with Municipal services;

CONFLICT OF INTEREST

13. Employees shall not make decisions on behalf of the municipality, make recommendations to the municipality, use their position with the municipality, or take any action on behalf of the municipality in respect of matters in which they have or believe they have a Conflict of Interest.
14. When there might be a conflict between personal interests and those of the Municipality, employees shall disclose that fact immediately and seek guidance from the CAO.
15. Employees shall provide full disclosure when offering information in potential conflict situations.
16. The CAO, after receiving such a disclosure is required to give it due consideration, obtaining advice and assistance as necessary from the Solicitor, and provide the necessary direction to the Employee with respect to resolution of the Conflict of Interest.

17. Provided that the disclosure has been full and frank, any employee who complies with the direction given pursuant to this process will be safe from discipline or justified criticism and will be able to rely upon the direction as a complete answer to any future disciplinary or other action by the Municipality against the employee in respect of the Conflict of Interest.

CONFIDENTIAL INFORMATION

18. It is the responsibility of each employee to ensure that confidential information obtained in the scope of their employment is kept strictly confidential and not released to anyone except as require by the law.
19. As per *The Municipal Act*, employees shall not directly or indirectly, release, make public or divulge any information related to legally called and conducted in camera or closed meeting deliberations of Council. However, simply because information is shared within a closed meeting does not automatically make that information confidential; it must meet legislated exemptions for openness or fall within other protected legislation.
20. Requests for information should be shared with appropriate staff to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act (MFFIPA)*.

GIFTS AND BENEFITS

21. No employee shall accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of his or her duties of Office or employment.
22. For these purposes, a fee or advance paid to, or a gift or benefit provided with the employee's knowledge to an employee's spouse, child, or parent is deemed to be a gift to that member.

CONDUCT AT MEETINGS OF COUNCIL

23. Staff shall conduct themselves with decorum at Council meetings in accordance with the provisions of the Municipal Procedural By-Law.
24. Respect for delegates, Council members and staff requires that all employees show courtesy and not distract from the business of Council during presentations and when other members have the floor. This does not mean that staff may not offer advice, comments, or suggestions; what it means is that all comments must be accurate, respectful, and pertain to the topic/subject at hand.

ENCOURAGEMENT OF RESPECT FOR THE MUNICIPALITY AND ITS BY-LAWS AND POLICIES

25. Employees shall at times endeavour to encourage public respect for the Municipality and

its by-laws and policies.

26. Employees shall recognize that Municipal Council is the elected voice of the citizens of the Municipality and shall respect the decisions of Council.
27. Employees shall be careful to distinguish between personal comments or opinions expressed outside of the workplace and their jobs with the Municipality.
28. Employees shall not make comments that are defamatory in nature about the Municipality, Council, individual Council members, or co-workers.
29. Employees shall not claim to speak on behalf of the Municipality unless they have been authorized to do so.
30. Employees shall not make comments using municipal letterhead, municipal e-mail addresses, or anything else that implies a connection between personal comments or opinions and the Municipality.
31. Employees shall implement decisions and policies of Council without comment or complaint so long as they are not illegal, immoral, or improper.

PERSONAL CONDUCT

32. Employees shall ensure that their personal conduct within the workplace or other locations, while in the course of their employment, does not adversely affect:
 - Their ability to perform their official duties;
 - The ability of other employees to perform their duties; or,
 - Public confidence in the official's functions, the organization, or the integrity of the public sector
33. Employees should remain neutral in their service to all councillors providing the same level of service, information, and responses to all requests no matter who should make them. This does not prevent individual employees from having conversations with Council members or relationships or relationships outside of work. What it means is that all information concerning Municipal business is shared equally and in an unbiased manner and that requests from one member are treated in the same manner as those from other members.
34. Relations and communications between employees, between employees and council members, and between employees and the public, should always be civil and premised on mutual respect.
35. This means that staff will use polite and respectful language and will not use offensive language or gestures, nor shall they engage in patronizing or condescending behaviour with one another, members of Council or the public.

PUBLIC TRUST

36. Employees are guardians of public funds and are responsible for delivering a wide range of important public services, which are supported by members of the public through their taxes. Employees owe the public nothing less than their full commitment to doing the best job they can.
37. Employees have an obligation to help build pride in the community, to respect the dignity and diversity of their colleagues, and to treat them as we would like to be treated ourselves.
38. To ensure that employee conduct does not diminish respect for ourselves, co-workers, and for the Municipality, employees shall maintain and exemplify the highest standards of behaviour through:
 - Devoting ourselves fully to our jobs during working hours and not allowing personal activities to interfere with work.
 - Ensuring that all property in our care (including cash, cheques, documents, inventories and equipment) in our care as part of our job is properly secured and protected at all times.
 - Being honest, polite, and courteous when we deal with people, whether they are members of the public, Council, or co-workers.
 - Fostering an atmosphere of collegiality and supporting co-workers in their work
 - Providing excellent customer service every day.
 - Dressing appropriately.
39. Employees shall not take actions which will:
 - Harass or intentionally intimidate others;
 - Manipulate, falsify, alter, or amend documents, information, or records for fraudulent purposes

INFLUENCE OF COUNCIL

40. Each employee works for the Municipality as a body corporate and is charged with making recommendations that reflect their professional expertise and corporate perspective without undue influence from any individual member or group of members from Council.
41. Each employee shall endeavour to provide a high quality of advice based on political neutrality and objectivity irrespective of party politics, the loyalties of persons in power, or their personal opinions.
42. Council has designated responsibility to the Chief Administrative Officer (CAO) for the administration of the affairs of the Municipality in accordance with the by-laws and policies adopted.
43. This means that under the supervision of the CAO, staff have the responsibility and authority to provide consultation, advice, and direction to Council and to implement Council approved policy.

44. Accordingly, staff establish the appropriate administrative policies, systems, structures, and internal controls to implement the goals and objectives of Council, and to manage implementation within the resources at their disposal.

PERSONAL USE OF MUNICIPAL PROPERTY

45. There shall be no use or appropriation of municipal property, facilities, services, or information for personal use, gain, or business by employees, unless that municipal property is generally available to the public and is being used by the employee in that capacity like any other member of the public (i.e. using a Municipal park or other facility for recreational purposes).
46. This general rule will be subject to exceptions:
- If personal use of the Municipal property is provided as part of employment or duties and the personal use is:
 - approved by Council;
 - contained in an official job description; or,
 - within an employment agreement.
 - If the use of Municipal property consists of the personal use of telephones, internet, computers, fax machines, cell phones, or photocopiers and all of the following are satisfied:
 - Use does not cause any additional expense to the Municipality (i.e. there is full reimbursement of any charges)
 - Use is not excessive having regard to the circumstances;
 - Use does not have a negative overall impact on Employee productivity; and
 - Use does not interfere with the normal operation of the municipality or negatively impacts other employees;

SPECIFIC RULES RELATING TO COMPUTERS

46. Electronic records stored on Municipal computer systems or equipment are the property of the Municipality of Boissevain-Morton. The Municipality maintains the right to access and monitor records in electronic format including flash drives, hard drives, and emails.
47. Users of Municipal computer equipment shall not:
- Attempt unauthorized access to systems, information, processes or products;
 - Broadcast e-mail messages that are not work related or are otherwise authorized;
 - Propagate viruses, or send or download materials which may impact the operating efficiency of the system;
 - Undertake any other activities that can duly impact the use or performance of others;
 - View, retrieve, transmit or disseminate:
 - Any pornographic or obscene messages, images, or materials;
 - Any other messages, images or materials which are offensive to human dignity

RECORDS RETENTION

48. E-mails that are not filed in hard-copy may be disposed of at the user's discretion and as per the *Municipal Freedom of Information and Protection of Privacy Act*. Users are encouraged to delete messages that are not filed in hard-copy form as soon as the message has been read. Attachments to e-mail messages should be detached and filed electronically or printed and filed in hard-copy records.

INSTALLATION OF SOFTWARE

49. Only licensed software and registered shareware acquired by and paid for by the municipality are to be operated on the municipal system. Computer games acquired by and paid for by the municipality as part of a training package may be installed on municipal equipment but no other games, including shareware games, are to be installed on municipal equipment. No municipally licensed software is to be copied or transferred to home computers.
50. No software of a personal nature is to be maintained on the municipal system.

ALCOHOL AND DRUG USE

51. While within the Workplace, no use of alcohol is permitted unless the consumption of alcohol occurs at an event approved by Council at which alcohol is served.
52. While within the Workplace, no use of non-prescription or illegal drugs is permitted. Normal use of over the counter or prescription medications is of course allowed.
53. This section shall not apply to alcohol and drug use outside the Workplace, with three exceptions. In each of the following exceptions, the use of alcohol or drugs outside the workplace will constitute a contravention of this by-law:
- If the alcohol or drug use negatively affects the performance of the Employee within the Workplace. E.g. the employee consumes alcohol and in the opinion of the employee's supervisor, comes to work with a smell of an alcoholic beverage while exhibiting erratic or unusual behaviour, stumbling, difficult speaking, loss of balance, or lack of coordination;
 - If it is a position requirement for a specific position that an Employee shall have no alcohol or drugs in their system while within the workplace, and the Employee comes to work or resumes work following a lunch or other break with alcohol or drugs in their system; or,

- If the Employee operates a Municipally-owned motor vehicle or dangerous machinery as part of his or her duties, and the Employee comes to work or resumes work following a lunch or other break with any alcohol or drugs in their system.

WHISTLEBLOWING

54. None of the following measures shall be taken against a Municipal employee by reason that the Employee has, in good faith, engaged in opposition to a Municipal Initiative or has disclosed a Wrongdoing in the manner set forth in this by-law:
- A disciplinary measure;
 - The demotion of the Employee;
 - The termination of the employment of the Employee; and,
 - A threat to take any of the measures above.
55. It is important that the disclosure of Wrongdoing be reported to the appropriate law enforcement or other official who has been entrusted with responsibility for monitoring and combating Wrongdoing such as:
- To a police officer or other law enforcement official;
 - To the Mayor and Council of the Municipality;
 - To the Chief Administrative Officer (CAO) of the Municipality;
 - To the Treasurer of the Municipality;
 - To the Auditors of the Municipality;
 - To the Municipal Solicitor;
 - To any Municipal Councillor of the Municipality.
56. Any individual who receives an allegation of Wrongdoing from any individual shall consult with the CAO and/or Municipal Solicitor to determine what kind of response is appropriate to the particular allegation.

APPLICATION/COMPLAINT PROCESS

57. The formal portion of the Complaint Process requires that a complaint be made in writing setting out the grounds for the belief that there is an alleged contravention.
58. Each complaint shall include a supporting affidavit that sets out the evidence in support of the complaint.
59. The complaint shall be filed through the CAO, or designate, who is a commissioner for taking affidavits.
60. Any submissions or written comments together with the personal information

of the complainant made to the Municipality under this or any other process will become part of the public record and may be reproduced, recorded and/or reported online. There is no promise of confidentiality provided to the complainant under this process; it is to be open and transparent.

61. Unsigned and/or anonymous complaints will not be recognized or acted upon.
62. Complaints that are considered frivolous and vexatious by the CAO will not be subjected to the costs of investigation. In this instance “frivolous” means “not having any serious purpose or value” and “vexatious” means “annoying or harassing”.

INTERPRETATION

63. Employees or members of Council seeking clarification of any part of this by-law should consult first with the CAO.
64. Complaints received will be reviewed by the CAO with the complainant or the person complained about. Together they will discuss options and further steps for resolution.
65. If the issue can be resolved by the CAO and to the satisfaction of the complainant, no further action will be required.
66. If the breach of the code is severe and is not easily remedied, the CAO shall within 30 days of receipt of the complaint and with the assistance of the Municipal Solicitor if required, commence an investigation. Depending on the situation, an outside firm may be hired by the CAO and at the CAO’s discretion, to complete the investigation.
67. Extended time to commence an investigation, if justified, may be authorized by a resolution of Council.
68. After consultation with the Municipal Solicitor and/or investigator, as required, the CAO shall determine if an employee or employees have committed a breach of the code.
69. Pending the outcome of any investigation, the CAO shall implement disciplinary action.
70. When complaints arise, the CAO shall provide an annual report to Council for review. This report shall provide a list of investigations, and include the costs and the status of the individual investigations.
71. As all complaints against staff are in fact personal matters about an identifiable individual they will be kept confidential to the best of the ability of

the CAO, staff and investigators.

72. As these complaints are internal Human Resource matters, there is no obligation to provide details of the complaints to members of Council. Depending on the situation and following provincial legislation, documentation will be kept in the employee's personnel file.
73. The CAO may consult with legal counsel as may be required in determining points of law.
74. If the complaint concerns the CAO, it will immediately be submitted to the Municipal Solicitor for resolution. The Solicitor may choose to dismiss the complaint, perform an investigation himself/herself or hire an independent investigator.
75. The resulting investigative report will include recommendations for remedy, discipline or dismissal as required.
76. Any report shall remain confidential as it would be considered personal information about an identifiable individual.
77. Subject to the requirements of any disciplinary policy of the Municipality, enforcement may include disciplinary action up to and including dismissal.

ENFORCEMENT

78. Proactively, the CAO shall give a copy of this by-law to each new employee at the time of hire.
79. The by-law will be made available on a continuing basis to all staff through electronic means so that every employee has access to it and can read, download, or print a copy.
80. Failure to receive training will not be an excuse for non-compliance with this by-law.
81. The CAO is under a positive obligation to enforce this by-law and deal with breaches of the by-law by subordinates that have come to their attention as appropriate in the circumstances.
82. Reactively, if any person, including a member of the public, wants to make a complaint that someone has breached this by-law; the allegation shall be referred to the CAO who will take appropriate action as contained within this by-law.

ACCOUNTABILITY

83. Employees shall:

- Know the Code and comply with its principles.
- Disclose breaches of the Code immediately, whether they are committed by ourselves or a co-worker.
- Cooperate fully with investigations into alleged wrongdoing.
- Understand that breaches of the Code shall be subject to disciplinary action, up to and including termination.
- If required seek interpretation of the Code from the CAO.
- Make observance of the Code part of their daily work and review the Code as part of annual performance reviews.
- NOT retaliate against anyone who has come forward with a complaint, or is a witness to a complaint.
- NOT assume that violations of the values in this Code are someone else’s problem.

REVIEW AND REVISION OF THE CODE

84. Council must review this Code of Conduct By-Law each term to ensure it effectively meets its needs.

SEVERABILITY

85. 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.

DONE AND PASSED as a by-law of the Municipality of Boissevain-Morton at the Civic Centre in Boissevain, in the Province of Manitoba this 15th of October, 2020.

Municipality of Boissevain-Morton

Head of Council

Administrator

Read a first time this 24th day of September A.D., 2020.
Read a second time this 15th day of October A.D., 2020.
Read a third time this 15th day of October A.D., 2020