Update – Non-union Personnel Policy

BACKGROUND
The non-union personnel policy was approved by Council in 2013. At that time, three sections still had to be written: Section 9 - Alcohol and Drug Use, Section 10 – Employee Discipline and Section 11 – Termination. See a discussion on each section below and proposed wording for them attached to this report for Council’s consideration.

ANALYSIS
Section 9 – Alcohol and Drug Use
This issue applies to all municipal personnel, not just full-time non-union staff. Therefore, it would be appropriate to adopt a policy that applies to all personnel – full-time, part-time, union and non-union, seasonal and contract – and reference it in the non-union personnel policy. A proposed Substance Abuse Policy is included with this report.

Section 10 – Employee Discipline
Employee discipline can take many forms but the most common one is called progressive discipline where a situation is first discussed with an employee, then a verbal ‘warning’ is given followed by a written warning and so forth. See the attached proposed process for Southwest Middlesex employee discipline based on the progressive discipline method.

Section 11 – Termination
Termination can be the final result of a disciplinary action. Therefore, it’s been addressed in the proposed disciplinary process under Section 10 above.

RECOMMENDATIONS
1. That the Southwest Middlesex Substance Abuse Policy be approved as presented.
2. That Sections 9, 10 and 11 of the non-union Personnel Policy be amended as proposed by the Administrator/Clerk.
PROPOSED AMENDMENT – NON-UNION PERSONEL POLICY

9. Alcohol and Drug Use

The Municipality is committed to ensuring a safe and healthy workplace and has put in place a Substance Abuse Policy. Employees shall adhere to the Southwest Middlesex Substance Abuse Policy.

10. Employee Discipline

a) In the event that an employee of the Municipality violates this or any other municipal policy or exhibits problematic behavior, a system of progressive discipline shall be utilized. Progressive Discipline can be issued on attendance, conduct, health & safety or performance concerns.

Employees will be given four opportunities to correct the unwanted behavior, unless the behaviour or concern is one of a severe nature, in which case, progressive discipline can be accelerated to match the violation. Typically, progressive discipline will progress through the following steps:

1. Coaching - informal
2. Verbal Warning - formal
3. Written Warning - formal
4. Final Written Warning with Possible Suspension - formal
5. Termination

With each violation or apparent problem, the employee will be provided with a written document to: (1) alert them to the problem, provide a reiteration of the correct company policy regarding the violation, (2) advise them of the consequences associated with further infractions, and (3) provide a suggestion towards a method of improvement.

b) All formal warnings will be kept on file for a period of two years. If no further discipline happens within the time period, the warning will become inactive. If further offences relating to the issue have taken place, the warning will be attached to the next set of progressive disciplinary actions.

c) Degrees of discipline shall be used in relation to the problem at hand. As the situation dictates, based on the past performances of the employee, and the seriousness of the violation, the Municipality reserves the right to skip the three-step disciplinary process and move straight to termination where necessary.

d) All violations or alleged violations will be properly investigated and documented by a department head. All formal measures that have been taken within the progressive discipline process will be documented and kept in the employee's personnel file.

e) During the final written warning, an employee may be suspended and/or put on review.
   - Suspension: Employees put on suspension will be excluded without pay from the workplace for a period of one to three (1-3) days depending on the violation. Typically suspension will be for three (3) days unless the employee is required at work to complete projects or perform required duties.
• **Review:** Employees may be put on a review period following the final written warning. The review period will last three months. During the review period the employee will be excluded from wage increases and advancement and is discouraged from taking vacation.

f) The final stage of progressive discipline is termination of employment. Termination of employment with Municipality of Southwest Middlesex may occur following an employee committing multiple violations of municipal policy, after the logical steps for progressive disciplinary action have been taken, or immediately following a severe violation.

g) In the event that an employee feels that they have been wrongfully accused, or disciplined, they may file a written appeal with the Administrator/Clerk. Written appeals must contain:

- Details of the discipline;
- Events surrounding the discipline;
- Why the employee feels the discipline is not warranted or appropriate.

The Administrator/Clerk or designate shall review and respond to all written appeals within ten (10) business days.

h) In the event that an employee is placed on suspension pending the results of an investigation, the employee will be given a stated timeline for the investigation, notified of the decision and the actions that predicated the decision.

This form of suspension is not disciplinary but is intended to allow the Municipality to examine the issues thoroughly and to determine appropriate action. Should the investigation not be completed during the stated timeline, the Municipality reserves the right to extend the suspension, as necessary.

During the course of the investigation, the suspended employee will be provided with the details of the allegations and given an opportunity to respond to them. The suspended employee must ensure that he/she is available for interviews during this period. If the suspended employee fails to make him/herself available, the Municipality will proceed with the investigation and make a determination based on the information available.

The suspended employee will have the right to legal representation or a municipal representative present at any such interview, and will be given 24 hours notice prior to any interviews taking place.

As the suspended employee will be suspended with full pay, he/she will be required to be available for interviews during this period. Should the suspended employee need to leave town or be otherwise unavailable for interviews, he/she must submit a request and be granted approved leave.

Any municipal employee who is placed on suspension with pay will be required to temporarily turn over his/her office keys, Southwest Middlesex identification and credit cards. Any and all Municipality of Southwest Middlesex property, business information, and confidential information are to remain at the worksite. In the event that any employee placed on suspension with pay maintains any files or equipment at his/her residence which are the property of the Municipality, he/she will be required to turn these items over to a municipal representative until such time as the investigation is completed.

Employees placed on suspension with pay should not have contact with anyone from the office other than their designated point of contact.

11. The Municipality is committed to treating all employees with dignity and respect and in accordance with all employment law when it is necessary to terminate employment. Termination shall be in accordance with Section 10 of this personnel policy.
Substance Abuse Policy

Municipality of Southwest Middlesex

1. Application

This policy applies to all employees of the Municipality of Southwest Middlesex, included but not limited to full-time, part-time, seasonal, and/or under contract. The term “worker” also applies to all employees including management.

2. Principles

Employees under the influence of drugs or alcohol on the job can pose serious health and safety risks both to themselves and their fellow employees. To help ensure a safe and healthy workplace, the Municipality reserves the right to prohibit certain items and substances from being brought on to, or present on municipal premises and/or work places.

3. Expectations

The following expectations apply to all employees while conducting work on behalf of the Municipality, whether on or off municipal property:

- Employees are expected to arrive to work fit for duty and able to perform their duties safely and to standard. Employees must remain fit for duty for the duration of their shift;
- Use, possession, distribution or sale of drugs or alcohol during work hours, including during paid and unpaid breaks, is strictly prohibited;
- Employees are prohibited from reporting to work while under the influence of non-prescribed drugs or alcohol; and
- Employees on prescription medication must communicate to management any potential risk, limitation, or restriction requiring modification of duties or temporary reassignment.

4. Roles and Responsibilities

Municipality of Southwest Middlesex will:

- Clearly communicate expectations surrounding alcohol and drug use, misuse and abuse;
- Maintain a program of employee health and awareness;
• Provide a safe work environment; and
• Review and update this policy on a regular basis.

Management will:
• Identify any situations that may cause concern regarding an employee’s ability to safely perform their job functions;
• Ensure that any employee who asks for help due to a drug or alcohol dependency is provided with the appropriate support (including accommodation) and is not disciplined for doing so; and
• Maintain confidentiality and employee privacy.

Workers must:
• Abide by the provisions of this policy and be aware of their responsibilities under it;
• Arrive to work fit for duty, and remain as such for the duration of shift;
• Perform work in a safe manner in accordance with established safe work practices;
• Refrain from the consumption, possession, sale, or distribution of drugs or alcohol on municipal property and during working hours (even if off municipal property);
• When off duty, refuse a request to come into work if unfit for duty;
• Report limitations and required modifications as a result of prescription medication;
• Report unfit co-workers to management;
• Seek advice and/or appropriate treatment, where required;
• Communicate dependency or emerging dependency; and
• Follow the after-care program, where established.

5. Suspicion of Impairment
The following procedure will be enacted if there is reasonable belief that an employee is impaired at work:

i. If possible, the employee’s manager/supervisor will first seek another manager/supervisor’s opinion to confirm the employee’s status.

ii. Next, the manager/supervisor will consult privately with the employee to determine the cause of the observation, including whether substance abuse has occurred. Suspicions of an employee’s ability to function safely may be based on specific personal observations. If the employee exhibits unusual behaviour that may include, but not limited to, slurred speech, difficulty with balance, watery and/or red eyes, dilated pupils, and/or there is an odour of alcohol, the employee should not be permitted to return to their assigned duties in order to ensure their safety and the safety of other employees or visitors to the workplace.
iii. If an employee is considered impaired and deemed “unfit for work” this decision is made based on the best judgment of two members of management and DOES NOT require a breathalyser or blood test. If the employee is unionized, the findings will be communicated immediately to a union representative.

iv. The employee will be advised that the Municipality has arranged to safely transport them to their home address or to a medical facility, depending on the determination of the observed impairment. The employee may be accompanied by a manager/supervisor or another employee if necessary.

v. An impaired employee will not be allowed to drive. The employee should be advised if they choose to refuse the municipally arranged transportation and make the decision to drive their personal vehicle the Municipality is obligated to and will contact the police to make them aware of the situation.

vi. A meeting will be scheduled with the employee for the following work day to review the incident and determine a course of action which may include a monitored referral program as part of a treatment plan. Union employees may have a union representative accompany them to the meeting.

6. **Substance Dependency**

The Municipality understands that certain individuals may develop a chemical dependency to certain substances, which may be defined as a disease or disability. Employees are not excused from their duties as a result of their dependencies. The Municipality promotes early diagnosis and will assist, where able, to provide information on available treatment options. Any employee who suspects that he/she might have an emerging drug or alcohol problem is expected to seek appropriate treatment promptly.

7. **Voluntary Identification**

Employees are encouraged to communicate if they have a dependency or have had a dependency so that their rights are protected and they can be accommodated appropriately. Employees will not be disciplined for requesting help or due to current or past involvement in a rehabilitation effort. However, discipline, including termination, may be imposed when use of a substance or a dependency is only disclosed after a significant event has occurred such as one that did or could have put the employee, coworkers and/or members of the public at risk or potential risk.

All medical information shall be kept confidential by Municipality of Southwest Middlesex, unless otherwise authorized by law.

8. **Disciplinary Action**

Employees will be subject to disciplinary action, up to and including termination of employment for failure to adhere to the provisions of this policy, including, but not limited to:

- Failure to meet prescribed safety standards as a result of impairment from alcohol and/or drugs; and
- Engaging in illegal activities (e.g. selling drugs and/or alcohol while on municipal premises).
9. Agreement for the Continuation of Employment

The Municipality reserves the right to invoke an Agreement for the Continuation of Employment in accordance with an employee’s commitment to become, and remain alcohol and drug-free. The Agreement will outline the conditions governing the employee’s return to the job, which could include the successful completion of a rehabilitation program, and the consequences for failing to meet the conditions.

An Agreement for the Continuation of Employment may include a requirement for drug and alcohol testing.

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Acknowledgment and Agreement

I, ____________________________, acknowledge that I have read and understand the Substance Abuse Policy of Municipality of Southwest Middlesex. I agree to adhere to this policy and will ensure that employees working under my direction adhere to this policy. I understand that if I violate the rules set forth in this policy, I may face disciplinary action, up to and including termination of employment.

Name: ______________________________________
Signature: ____________________________________
Date: _________________________________________
Witness: _______________________________________