TO: Chair and Members Audit, Finance & Administration Committee

COMMITTEE DATE: February 10, 2014

SUBJECT/REPORT NO: Workplace Violence Prevention Policy HUR13015(a) (City Wide) (Outstanding Business List Item)

WARD(S) AFFECTED: City Wide

PREPARED BY: David Lindeman 905-546-2424 ext. 5657

SUBMITTED BY: Chris Murray City Manager

SIGNATURE: 

RECOMMENDATION

(a) That the Workplace Violence Prevention Policy, attached as Appendix A to HUR13015(a) be approved; and

(b) That the item respecting the Workplace Violence Prevention Policy be considered complete and removed from the Audit, Finance & Administration Committee Outstanding Business List.

EXECUTIVE SUMMARY

At the December 9, 2013 meeting of Audit, Finance & Administration Committee, staff was directed to make amendments to the Workplace Violence Prevention Policy. This report contains the amended policy for Council approval. This report also gives an overview of staff's communication strategy with respect to this policy.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial:
Not applicable

**Staffing:**
Health, Safety and Wellness Specialists from Human Resources support management in meeting their legal obligations to prevent workplace violence. They assist in completing assessments, arranging or providing training and responding to incidents of workplace violence including situations of domestic violence.

**Legal:**
Under the *Occupational Health and Safety Act* (the *Act*), an employer is required to create a policy and program with respect to workplace violence and to review the policy, as often as necessary, but at least annually. Workplace violence is considered a hazard under the *Act* and employers must take every precaution reasonable in the circumstances to protect workers from workplace violence. The *Act* also assigns specific duties to supervisors and workers on identifying, assessing and controlling workplace violence. The *Act* places obligations for employers to ensure all workers are protected from any physical violence that may arise in the workplace from domestic violence situations.

**HISTORICAL BACKGROUND (Chronology of events)**
In Report HUR13015, staff provided the background to the development and revisions of the Workplace Violence Prevention Policy. The Audit, Finance and Administration reviewed the Policy and directed staff to make the following amendments:

(i) Adding further wording under the Policy Statement portion advising that the City of Hamilton has adopted a Zero Tolerance policy with respect to violence in the workplace; and,

(ii) Amending the Compliance Section of each policy by adding the words “with cause (without severance)” after the words “up to and including dismissal”.

Report HUR13015, respecting the Workplace Violence Prevention Policy was tabled to the January 20, 2014 Audit, Finance & Administration Committee.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**
The *Occupational Health and Safety Act* sets out duties for the employer:

- Create and post workplace violence and harassment policies
- Create workplace violence and workplace harassment prevention programs
- Conduct risk assessments for workplace violence
- Provide worker instruction respecting violence and harassment policies and programs
• Employer obligations to respond to domestic violence at work
• Report incidents of workplace violence to Ontario Ministry of Labour

The Act also provides workers with the right to refuse work related to workplace violence.

**RELEVANT CONSULTATION**

This Policy was reviewed by the Occupational Health and Safety Advisory Committee, various Joint Health and Safety Committees, and the Corporate Policy Review Group.

Senior Management Team reviewed and approved the Policy.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

(Include Performance Measurement/Benchmarking Data if applicable)

Staff have amended the Policy. It is attached to HUR13015 (a) as Appendix A. Amendments are highlighted in the document.

Following Council approval, the revised Policy will be communicated, as follows:

- Email to all employees from the City Manager
- SMT will discuss with all Directors at Department Management Team meetings
- Reviewed at the City Manager’s Extended Management Team meeting in May as part of the review of Code of Conduct policy in follow up to the Corporate Ethics Review
- Incorporated in mandatory Management Training on Harassment and Discrimination Prevention. All supervisors and above are required to have completed this training by the end of 2014.
- Incorporated in all employee training of “It Starts With You, Creating and Maintaining Respectful and Supportive Workplaces”
- Incorporated in all Health and Safety for the Front-Line Supervisor training
- Incorporated in all corporate New Employee Orientation sessions
- Discussed at all Joint Health & Safety Committee meetings and the annual Health and Safety Symposium in May
- Posted on employee bulletin boards
- Communicated on eNet and through connections bulletin updates

**ALTERNATIVES FOR CONSIDERATION**

(Include Financial, Staffing, Legal and Policy Implications and Pros and Cons for each alternative)

Not applicable
ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #3
Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.
3.3 Improve employee engagement.

APPENDICES AND SCHEDULES ATTACHED

Appendix A to Report HUR13015(a) – Workplace Violence Prevention Policy
VIOLENCE IN THE WORKPLACE PREVENTION POLICY
(In accordance with the Occupational Health & Safety Act)

POLICY STATEMENT
The City of Hamilton is committed to providing a respectful, supportive, healthy, safe, accessible and inclusive work environment for all employees, as they are entitled to work in an environment free from Workplace Violence. The City upholds a zero tolerance to acts of Workplace Violence. The City is also committed to providing a safe and respectful environment for all those who enter its facilities and access its services.

PURPOSE
The City will be proactive in working with its employees to prevent violence in the Workplace by establishing and implementing a comprehensive Workplace Violence prevention program to fulfill the requirements of relevant legislation including the:
- Occupational Health and Safety Act
- Criminal Code of Canada
- Ontario Human Rights Code
- Workplace Safety and Insurance Act

This policy defines Workplace Violence (violence) and identifies the responsibilities of Employees and Management. It identifies behaviours that constitute violence and identifies the process for reporting and resolving incidents of violence.

SCOPE
This policy applies to all Employees of the City of Hamilton which includes but is not limited to regular, temporary and contract employees. This policy also applies to volunteers, students and interns. For the purpose of this policy, collectively these classifications will be called “Employees”. This policy also applies to elected officials.

Members of the general public, visitors to City facilities, individuals conducting business with the City of Hamilton and employees of contractors or other organizations providing services to the City are expected to refrain from violence towards employees.

This policy does not apply to Workplace Harassment. Refer to the Harassment and Discrimination Prevention Policy and Personal Harassment Prevention Policy in response to incidences of Workplace Harassment.
### Corporate Human Resources Policy

#### Health, Safety & Wellness

**Violence in the Workplace Prevention Policy**

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**Content Updated:** 2013-10-18

**Supersedes Policy:**

**Violence in the Workplace Prevention Policy (Appendix A, Code of Conduct)**

dated November 17, 2005

**Approval:** 2014-MM-DD

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### PRINCIPLES

The City prohibits violence in any Workplace, or at any work related and/or staff function, or in any other work-related circumstances.

The City will make every effort to ensure an appropriate level of privacy and confidentiality in circumstances where an incident of Workplace Violence has occurred or when a victim comes forward requesting assistance from the Employer. Private information will only be shared as required to comply with the law.

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### DEFINITIONS

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<tr>
<th>Term</th>
<th>Definition</th>
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<tr>
<td><strong>Domestic Violence</strong></td>
<td>The exercise, attempt or threat of physical force by a person who has a personal relationship with an Employee such as a spouse or former spouse, current or former intimate partner or a family member that may be directed towards an Employee or Employee(s) at the Workplace.</td>
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<tr>
<td><strong>Employer</strong></td>
<td>In accordance with the <em>Occupational Health &amp; Safety Act</em>, means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services.</td>
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<tr>
<td><strong>Management</strong></td>
<td>Any individual responsible for directing the work of others, including but not limited to elected officials (when in a supervisory relationship with City Employees), the City Manager, General Managers, Executive Directors, Directors, Managers, Superintendents, Supervisors, Team Leaders, Project Managers and Forepersons.</td>
</tr>
<tr>
<td><strong>Vexatious</strong></td>
<td>Conduct that is inappropriate, unnecessary, and that a reasonable person would consider to be offensive, upsetting, distressing, demeaning, or would make a person uncomfortable.</td>
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<tr>
<td><strong>Workplace</strong></td>
<td>Any building or part of a building in which one or more Employees work, including Employee eating, changing and lounge areas, and any vehicle or conveyance, or any area including outside worksites, where Employees perform their duties (construction site, open field, parking lot, road, park). A workplace also includes any work-related function or circumstances.</td>
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## Corporate Human Resources Policy

### Health, Safety & Wellness

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**Content Updated:** 2013-10-18

**Supersedes Policy:**

Violence in the Workplace Prevention Policy (Appendix A, Code of Conduct) dated November 17, 2005

**Approval:** 2014-MM-DD

### Workplace Harassment

Engaging in a course of vexatious comment or conduct against an employee in the Workplace that is known or ought reasonably to be known to be unwelcome.

### Workplace Violence

Includes any and/or all of the following actions:

- the exercise of physical force by a person against an employee, in a Workplace, that causes or could cause physical injury to the employee
- an attempt to exercise physical force by a person against an employee, in a Workplace, that causes or could cause physical injury to the employee
- a statement or behavior that is reasonable for an employee to interpret as a threat to exercise physical force against the employee, in a Workplace, that could cause physical injury to the employee.

### RESPONSIBILITIES

**Employer (Management)**

- Develop a Workplace Violence prevention program, in consultation with Joint Health and Safety Committees (JHSCs) that includes measures and procedures to identify, eliminate or minimize risks that are likely to expose an employee to violence in the Workplace. This includes conducting regular risk assessments, implementing control measures specific to the various Workplaces across the City, and providing instruction and information to employees on violence prevention in the Workplace.
- Ensure that measures and procedures in Workplace Violence prevention program is carried out and hold Management accountable for responding to and resolving complaints of violence.
- Ensure information and instruction on the content of a Workplace Violence prevention program is shared with all employees.
- Take every precaution reasonable in the circumstances for the protection of the employee if the employer becomes aware, or ought reasonably to become aware, that Domestic Violence would likely expose an employee to physical injury in the Workplace.
<table>
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<td>o Develop a reporting process for incidents of Workplace Violence.</td>
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<td>o Investigate all incidents, complaints or reports of Workplace Violence in a prompt, objective and sensitive way in accordance with the Violence in the Workplace Prevention Procedure. Monitor trends and take corrective action.</td>
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<td>o Create an environment that encourages victims of violence and witnesses to report all incidents of violence.</td>
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<td>o Ensure the Violence in the Workplace Prevention Policy and other associated policies are reviewed on an annual basis in consultation with Joint Health &amp; Safety Committees.</td>
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<td>o Subject to any limitations and/or disclosure requirements of the Municipal Freedom of Information and Protection of Privacy Act and the Personal Health Information Protection Act, provide information to employees, including personal information, related to risk of Workplace Violence from a person with a history of violent behavior, if,</td>
</tr>
<tr>
<td>a) the employee can be expected to encounter the person in the course of his/her work, and</td>
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<td>b) the risk of Workplace Violence is likely to expose the employee to physical injury</td>
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<td>o Ensure that Workplace Violence is not tolerated, ignored or condoned.</td>
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<td>o Assess the risk of Workplace Violence.</td>
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<td>o Provide instruction and education on violence prevention programs including emergency response measures to take regarding violent incidents.</td>
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<td>o Ensure measures and procedures are in place in the Workplace for summoning assistance if Workplace Violence is occurring or is likely to occur.</td>
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<td>o Ensure this policy and associated procedures are reviewed with all employees annually and posted in the Workplace in conspicuous locations.</td>
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<td>o Investigate Workplace Violence in accordance with accident investigation procedures and contact Ministry of Labour and Police as required. Ensure measures are taken to correct the situation and safeguard employees.</td>
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### Corporate Human Resources Policy

**Health, Safety & Wellness**

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#### Employees

- Document reports of Workplace Violence, hazards and measures taken to address them.
- Consult Human Resources for support concerning options to resolve incidents.
- Discipline those employees, in consultation with Human Resources, found to have violated this policy. Reporting of Workplace Violence or risk of violence made in good faith cannot be used as the basis of reprisal against the reporting Employee.
- Provide employees who have been directly or indirectly involved in violent incidents with appropriate supports, e.g., First Aid, medical assistance, debriefing by a skilled professional through Employee and Family Assistance Program (EFAP), and support through Critical Incident Peer Support (CIPS) Team.
- Refrain from threatening violence or engaging in any violent behaviour in the Workplace, at any work related functions, or in any other work-related circumstances.
- Immediately report all incidents or injuries arising from Workplace Violence to Supervisors or directly to Human Resources.
- Participate in information updates and instruction concerning violence in the Workplace.
- Be aware of the impact of professional obligations and legislation on the right to refuse unsafe work based on Workplace Violence.
- Understand and comply with all Workplace Violence policies and procedures.
- Report violent criminal acts, or suspected violent criminal acts, to the Police and notify Human Resources.
- Co-operate fully in any investigation of a violent incident.
- Contribute to Workplace Violence risk control measures and risk assessments.
- Participate in the review of the Workplace Violence Prevention Program.
- Seek support through Management, JHSC, Union (if applicable).
Joint H&S Committee

- Make recommendations to the Employer regarding the development, review and implementation of a Workplace Violence prevention program.
- Review the Violence in the Workplace Prevention Policy annually.
- Monitor trends associated with incidents or injuries as a result of Workplace Violence and recommend appropriate controls.
- Participate in the investigation of critical injuries as a result of violence.
- Provide support and referrals (internal and external) to Employees with situations concerning actual or potential violence so that they can receive prompt assistance and advice.

Human Resources

- Monitor legislative requirements, leading practices and standards related to Workplace Violence.
- Develop assessment tools, information packages and training programs.
- Assist in investigations of Workplace Violence.
- Assist Workplaces in developing Violence Prevention programs

COMPLIANCE

Any employee who is found to have violated this Violence in the Workplace Prevention Policy may be disciplined according to the severity of the actions, up to and including termination of employment with cause and without termination pay/severance. Such terminations will be communicated to City Manager and Council.

Any form of retaliation against Employees exercising their rights under this policy will be considered a serious violation of this policy and will not be tolerated. Such retaliatory actions may be subject
### Corporate Human Resources Policy

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- to disciplinary action, up to and including termination of employment *with cause and without termination pay/severance*. Such terminations will be communicated to City Manager and Council.

Any Employee found to have lodged or otherwise supported a false accusation will be subject to appropriate disciplinary action up to and including termination of employment *with cause and without termination pay/severance*. Such terminations will be communicated to the City Manager and Council.

### EXAMPLES OF WORKPLACE VIOLENCE

Examples of behaviours that constitute Workplace Violence behaviours include, but are not limited to, the following:

- Verbally threatening to attack an employee
- Leaving threatening emails or notes referencing physical force against the Employee
- Shaking a fist in an Employee’s face
- Hitting or trying to hit an Employee
- Throwing an object at an Employee
- Sexual abuse against an Employee
- Making threatening calls to an Employee
- Trying to run down an Employee using a vehicle or equipment such as a forklift
- Wielding a weapon at work

### RELATED DOCUMENTS

- *Violence in the Workplace Prevention Procedure - COH-RQ-WI-005*
- *Personal Harassment Prevention Policy*
- *Harassment and Discrimination Prevention Policy*
- *Resolving Harassment and Discrimination Issues Procedure*
- *Accident Reporting Guideline COH-RQ-GD-018*

### HISTORY

This policy replaces the former policy named Violence in the Workplace Prevention Policy (Appendix A, Code of Conduct) dated Nov. 17/05

The Occupational Health and Safety Advisory Committee and Policy Review Group were consulted in the creation of this Policy.

This policy was reviewed by Senior Management Team 2013-06-
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27, updated 2013-10-18 and approved 2013-10-24

Approved by Council of the City of Hamilton 2014-MM-DD