

## Municipal Officials Code of Conduct

### 1.0 Introduction

Municipal officials are entitled to carry out their duties free from harassment and discrimination. The City of Mount Pearl (the “City”) is committed to eliminating, where possible, or otherwise, minimizing the hazard of harassment, and discrimination in its workplace. The City seeks to provide a safe, inclusive, healthy, respectful and rewarding environment for its employees, Councillors, contractors and any other third parties under contract or agreement with the City. Violations of this Code of Conduct will not be tolerated.

The City requires all municipal officials to ensure an inclusive; respectful; discrimination- and harassment-free work environment. Municipal officials are expected to conduct themselves ethically and professionally, and in accordance with this Code of Conduct. The principles underlying the Code of Conduct are respect, integrity, honesty, impartiality, responsibility and accountability

The purpose of this Code of Conduct is to establish rules of conduct for municipal officials. Part III of the **Municipal Conduct Act, 2022** (the “Act”), requires that municipalities establish a Code of Conduct to govern the conduct of municipal officials and sets out minimum requirements for the Code of Conduct. This Code of Conduct promotes an ethical, professional environment that is free from any form of harassment and discrimination. It is crucial that everyone, regardless of their role or position, conduct themselves in a professional and respectful manner in accordance with this Code of Conduct.

### 2.0 Application

This Code of Conduct applies to municipal officials acting in their official capacity as municipal officials, as well as a municipal official's off-duty conduct that is sufficiently connected to their position with the City or that could reasonably discredit the reputation of the City.

Specifically, this Code of Conduct applies to the workplace and also to incidents, events and activities occurring outside the workplace, during or outside normal working hours, where such occurrences are committed or such events are attended as part of the individual's duties with the City. This includes, but is not limited to the following:

- conduct that is committed while an individual is acting on behalf of the City, is delivering or supplying goods or services to the City, or is reasonably perceived as representing the City;

- behaviours that may have a negative impact on the workplace or the City's reputation;
- conduct that could reasonably be associated with the workplace; and
- employment-related activities, including but not limited to fulfilling job responsibilities, social events, City functions, training sessions and seminars, provision of goods, services, facilities, accommodations and during work-related travel.

This Code of Conduct is intended to set out the expectations on municipal officials and is to be read in conjunction with any applicable employment policies or collective agreements. Nothing in this Code of Conduct is to be read in a way to limit an employer's ability to manage the workplace or discipline employees for a breach of this Code of Conduct, regardless of whether a complaint has been made, in accordance with applicable labour and/or employment law.

The intent and spirit of this Code also applies to third parties who interact with the City but who are not under contract or agreement with the City, stakeholders and members of the public who interact with employees of the City and members of Council.

### 3.0 Definitions

- 3.1 Abuse of Authority:** is a form of harassment pursuant to this Code of Conduct and occurs when an individual improperly uses the power and authority inherent in their position to interfere with an employee or the employee's job, undermine the performance of that job, threaten the economic livelihood of the employee, or in any way interfere with or influence the career of the employee. It includes humiliation, intimidation, threats and coercion. It does not include normal managerial activities, such as counselling, performance issues and disciplinary matters provided these are being conducted in a non-discriminatory manner.
- 3.2 Bullying:** a repeated pattern of mistreatment aimed at a specific person or group. Bullying can also be considered harassment.
- 3.3 Bystander:** an individual who witnesses conduct which constitutes or which they reasonably believe constitutes a violation of this Code of Conduct by or against an individual to whom this Code of Conduct applies and who files a complaint under this Code of Conduct. A Bystander is not a Complainant but may be interviewed as a witness and will be required to participate in the resolution and investigation as requested.
- 3.4 Chief Administrative Officer:** The person appointed to the position of Manager under the City of Mount Pearl Act. If the City has not appointed a Chief Administrative Officer or Manager, the duties under this Code of Conduct shall be performed by the City Clerk. Also known as the CAO
- 3.5 Complainant:** an individual to whom this Code of Conduct applies and who reasonably believes that they have been subjected to conduct which constitutes a violation of this Code of Conduct by an individual to whom this Code of Conduct applies and who files a complaint under this Code of Conduct.

- 3.6 Council:** includes the Mayor, Deputy Mayor, and all elected Councillors of the City of Mount Pearl.
- 3.7 Designate:** an individual authorized to act on behalf of another individual.
- 3.8 Discrimination:** includes any action, inaction or behaviour which intentionally or unintentionally denies a right, benefit or opportunity or status of an employee, or the unequal treatment of an employee or harassment on the basis of prohibitive grounds as defined under **Newfoundland and Labrador Human Rights Act, 2010**, which includes race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income or political opinion. The City does not tolerate any form of discrimination or differential treatment based on a prohibited ground. The behavior need not be intentional to be considered discrimination. Discriminatory has a corresponding meaning.
- 3.9 Frivolous Complaint:** a complaint that on its face has no merit or no prospect of success on the grounds that it has no basis in this Code of Conduct. Frivolous complaints differ from any unsubstantiated complaints. Unsubstantiated complaints are made in good faith, however insufficient evidence exists to either prove or disprove the veracity of the complaint. There will be no reprisal or discipline for unsubstantiated complaints made in good faith.
- 3.10 Harassment:** may include unwelcome, unwanted, offensive, or objectionable conduct that may have the effect of creating an intimidating, hostile or offensive work environment, interfering with an individual's work performance, adversely affecting an individual's employment relationship, or denying an individual dignity and respect.

Harassment may result from one incident, a series of incidents, or a pattern of behaviour. It may be directed at specific individuals or groups. The behavior need not be intentional to be considered harassment.

The **Newfoundland and Labrador Human Rights Act, 2010** prohibits discrimination and harassment based on a prohibited ground. Prohibited grounds under the **Newfoundland and Labrador Human Rights Act, 2010** include race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income and political opinion. Harassment is a form of discrimination if it is based on any prohibited ground under the **Newfoundland and Labrador Human Rights Act, 2010**.

Some examples of harassment as defined in this Code of Conduct include, but are not limited to:

- verbal or written threats, intimidation, or abuse;
- public ridicule or humiliation;
- spreading malicious rumours or gossip;
- insulting, derogatory, degrading or offensive comments, insults, jokes, slurs or gestures;

- unwelcome remarks or jokes based on a prohibited ground under the Human Rights Act, 2010;
- displaying sexist, racist or other offensive pictures or posters;
- physical assault, including sexual assault, impeding or blocking movement or any physical interference with normal work or movement;
- refusing to work with another employee because of that other person's sexual orientation, disability, racial, religious or ethnic background;
- derogatory comments, taunts, threats, jokes, teasing or jeers about race, color, nationality or ethnic origin or about the adornments and rituals associated with cultural or religious beliefs;
- referring to a person using terms or pronouns that do not align with the person's affirmed gender;
- creating a hostile or offensive work environment;
- using offensive, humiliating, foul or obscene language or directing profanity or offensive language at another employee;
- negative stereotyping;
- racial or ethnic slurs; and
- bullying, belittling, demeaning or aggressive behaviour including offensive, malicious, intimidating, ostracizing, insulting or humiliating behaviour;

Harassment also includes sexual harassment and abuse of authority as defined in this Code of Conduct.

The City does not tolerate any form of harassment based on a prohibited ground or employment position (e.g. contractor, management, student, non-union, union, volunteer, etc.).

Harassment does not include reasonable action taken by a supervisor relating to the management and direction of an individual or the work force. Such actions, including the assignment of work, instructions, performance reviews, coaching, and disciplinary action, when conducted by a supervisor or manager in a respectful manner and in good faith, are within an employer's right to manage performance expectations and to impose discipline.

**3.11 Malicious Complaint:** a knowingly false or untrue complaint. Also known as a bad faith complaint.

**3.12 Mediation:** a method of resolving a complaint under this Code of Conduct. This process involves the use of a neutral third-party person who attempts to reconcile the matter between the Complainant and Respondent in an informal and expeditious manner where both the Complainant and Respondent agree to the mediation process.

**3.13 Municipal Official:** the chief administrative officer, an employee of the City, or any person acting with or without remuneration, under the direction of the City, including but not limited to students, volunteers, contractors, and any third party under contract or agreement with the City.

**3.14 Political Activity** – applicable to municipal, provincial, territorial and federal politics, and includes but it is not limited to: seeking nomination or being a candidate in an election, giving donations to a political party from the municipal official's expenses, or actively canvassing or campaigning for a political party or a candidate.

**3.15 Respondent:** an individual to whom this Code of Conduct applies and against whom a complaint alleging a violation of this Code of Conduct has been made.

**3.16 Sexual Harassment:** is a form of harassment pursuant to this Code of Conduct and includes the following:

- engaging in a course of vexatious comment or conduct against an employee in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

The behavior need not be intentional to be considered sexual harassment.

Some examples of sexual harassment include, but are not limited to, the following:

- sexually suggestive remarks or gestures;
- unwelcome sexual advances or requests for sexual favors whether verbal, written, or physical;
- unwanted physical contact including touching, patting, pushing, pinching, physical assault or brushing against another employee's body;
- sexual, sexist, homophobic slurs or jokes, innuendoes or comments, unwanted invitations or insulting sounds causing embarrassment or offence;
- persistent unwanted contact or attention after the end of a consensual relationship;
- drawing attention to a person's sex, sexual orientation, nationality, ethnic origin, gender identity or gender expression with the intent, or with what ought to reasonably be understood as having the effect of undermining the person's role in a professional and business environment;
- unwelcome remarks, jokes, taunts, or suggestions about a person's body, attire, any part of their appearance, or sex life;
- staring, leering, whistling or unnecessary familiarity or unwanted physical contact such as patting, touching, kissing, pinching or hitting;
- displaying or distributing degrading, offensive, pornographic, sexually suggestive, or derogatory materials such as graffiti, objects, posters, written materials, or pictures;
- impeding or blocking movement or physical interference with normal work or movement;
- unwelcome inquiries or comments about a person's sex life;
- conduct made to an individual by another individual where the other individual is in a

position to confer a benefit on or deny a benefit to the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or reasonably ought to know that it is unwelcome;

- a retaliation or threat of retaliation against an individual for rejecting a sexual solicitation or advance, including unfair evaluations or reprimands, reduced working hours, overtime, dismissals, discipline for a refusal to submit to sexual advances;
- comments, gestures, or contact of a sexual nature that might reasonably be perceived as placing a condition on an employee's employment or providing or denying an opportunity or benefit; and
- unsolicited and repeated use of inappropriate nicknames such as "dear", "darling" or "honey".

**3.17 Workplace:** means any place where City business or City work-related activities are conducted including over the telephone, email or electronic communication. It also includes, but is not limited to, the physical work premises, City vehicles, City work-related social functions, travel, conferences, seminars, training sessions, or in the provision of goods, services, facilities or accommodation.

## **4.0 Standard of Conduct**

### **4.1 Standards of Professional Behaviour**

**4.1.1** Municipal officials must abide by this Code of Conduct.

**4.1.2** Municipal officials must adhere to the policies and procedures of the City.

**4.1.3** Municipal officials must work in the best interest of the City without regard for their personal interests.

**4.1.4** Municipal officials must act competently and diligently and perform at a level expected of those working in the public interest.

**4.1.5** Municipal officials shall respect other municipal officials, city employees, Councillors, third parties and members of the public and shall conduct themselves in a respectful and professional manner.

**4.1.6** Municipal officials must use language which is inclusive, respectful, and refrain from using language which could be interpreted as abusive or disrespectful.

**4.1.7** Municipal officials must, in private and public, conduct themselves in a manner which does not bring disrepute to themselves, their position, the Council, or the City.

**4.1.8** Municipal officials may not make decisions, take positions, or make statements which are unreasonable, unjust, arbitrary, oppressive, or discriminatory.

**4.1.9** Municipal officials shall afford, in the performance of City duties, equal treatment to all persons and, without restricting the generality of the foregoing, shall refrain from affording preferential treatment to any person, group, or organization.

**4.1.10** Municipal officials shall not engage in any political activity during work hours or while representing the City; however, nothing in this Code of Conduct prohibit or discourage any municipal official from voting.

**4.1.11** Municipal officials shall not use City resources, including but not limited to facilities, equipment, or supplies, while engaging in political activity.

**4.1.12** Municipal officials shall not use their position with the City in any way that would lead to any inference that the City is endorsing a candidate, political candidate, or political issue.

**4.1.13** City employees, students and volunteers shall not engage in political activity during an election except as authorized by the CAO.

**4.1.14** Any City employee, student or volunteer seeking election to any level of government shall take an unpaid leave of absence from the time the candidate files their nomination papers until election day. The ability to take leave is subject to applicable City policies and procedures.

**4.1.15** City employees, students or volunteers shall resign their position with the City if they are elected to any level of government.

**4.1.16** Any mandate of the City or task that is within the scope of the municipal official's duties shall not be considered political activity.

**4.1.17** Municipal officials must cooperate with, and participate in, any mediation, Alternative Dispute Resolution (ADR), or investigation pursuant to this Code of Conduct as applicable.

## **4.2 Use of Influence**

**4.2.1** Municipal officials must only use the influence of their position for the exercise of their official duties.

**4.2.2** Municipal officials must not use their authority or influence in a manner that could reasonably be perceived as an abuse of authority or as threatening, coercing, or improperly influencing the actions of any person.

**4.2.3** Municipal officials are prohibited from accepting gifts, favours, or free or discounted services from any individual, vendor, contractor, or others which could reasonably be perceived to show undue favour, bias, or disadvantage to any individual or organization or could reasonably be perceived to place the official in a conflict of interest.

**4.2.4** Municipal officials must not communicate on behalf of the City unless authorized by virtue of their position, role or duties with the City.

### **4.3 Misuse of Public Assets and Fraud**

**4.3.1** Municipal officials must report all expenses promptly, accurately, provide adequate detail, and shall maintain all receipts, invoices, and other relevant financial records and details when claiming expenses.

**4.3.2** Municipal officials must conduct the business of the City in a manner that is efficient and must avoid waste, abuse, and extravagance in the provision and use of City resources.

**4.3.3** Municipal officials must not request, use, or permit the use of City-owned vehicles, land, equipment, materials, or other property for personal convenience or profit, except where such privileges are granted to the general public, or except where authorized by Council or the CAO.

### **4.4 Confidentiality**

**4.4.1** Municipal officials must not disclose confidential information obtained in the course of their duties, except as required by law or as authorized by the CAO.

**4.4.2** Municipal officials must not use confidential information or official information which is not in the public domain for personal or private gain, the private gain of others, or a corporation.

**4.4.3** Municipal officials understand and acknowledge that the collection, protection, access, use, disclosure, and disposal of personal information may only occur in compliance with the **Access to Information and Protection of Privacy Act, 2015**.

**4.4.4** Confidential information means: information in the custody and/or control of the City that is prohibited from disclosure pursuant to legislation or court order or any other information that pertains to the business of the City generally considered to be of a confidential nature, including, but not limited to:

- a) Any matter that falls under the exceptions to disclosure identified in the **Access to Information and Protection of Privacy Act**, whether or not a request for access has been made;
- b) Personal information which would constitute an unreasonable invasion of privacy;
- c) Potential acquisitions or disposition of real property;
- d) Information which would reveal the substance of deliberation of a privileged meeting;
- e) Pending contracts including tenders, requests for proposals (RFPs), and records related to potential procurement;
- f) Draft documents and legal instruments including reports, policies, bylaws and resolutions that have not been the subject matter of deliberation in a meeting open to the public;

- g) Employment and collective bargaining matters;
- h) Legal matters;
- i) Law enforcement matters.

#### **4.5 Social Media**

**4.5.1** Municipal officials must not engage in conduct on personal or official social media platforms which would bring the integrity of themselves, the Council, or the City into disrepute.

**4.5.2** Municipal officials must conduct City business and official duties through official City accounts and devices. City business and the conduct of official duties shall not be done on personal devices or through personal accounts except where authorized by the CAO. Where personal devices or personal accounts are used for City business or the conduct of official duties then as soon as reasonably possible thereafter the business must be forwarded to an official City account and device.

#### **4.6 Harassment, Discrimination and Bullying**

**4.6.1** The obligations in this section are not intended to fulfill the requirement on a municipality as an employer to implement and maintain a harassment prevention plan, under section 24.1 of the **Occupational Health and Safety Regulations**.

**4.6.2** Municipal officials must not engage in harassment, discrimination or bullying and must refrain from behaving in a manner that could be construed as harassment, discrimination or bullying.

**4.6.3** All municipal officials shall treat members of the public, one another, staff, Council members, volunteers, contractors and any other third parties under contract or agreement with the City appropriately and without abuse, bullying, harassment or discrimination and to ensure that their work environment is free from abuse, discrimination, bullying and harassment.

**4.6.4** Municipal officials must take personal responsibility to develop and maintain respectful workplace relationships;

**4.6.5** Municipal officials must attempt to resolve differences or conflict in a respectful manner;

**4.6.6** Municipal officials must promote a harassment free and non-discriminatory workplace;

**4.6.7** Municipal officials must immediately report instances, observations or experiences of violations of this Code of Conduct towards themselves or others in accordance with this Code of Conduct and provide information relating to any witnessed violation of this Code of Conduct;

**4.6.8** Municipal officials must offer support to victims of violations of this Code of Conduct;

**4.6.9** Municipal officials must be knowledgeable about this Code of Conduct and the types of behavior that constitute violations;

**4.6.10** Municipal officials must participate in learning opportunities and training on the prevention, early intervention, and resolution of harassment, discrimination and bullying as directed.

#### **4.7 Legislative Compliance**

**4.7.1** A municipal official must reasonably comply with all obligations imposed on the municipal official by legislation, regulation, and City policy and procedures, including but not limited to:

- a) **City of Mount Pearl Act;**
- b) **Municipal Conduct Act;**
- c) **Municipal Elections Act;**
- d) **Public Procurement Act;**
- e) **Urban and Rural Planning Act, 2000;**
- f) **Access to Information and Protection of Privacy Act, 2015;**
- g) **Occupational Health and Safety Act;**
- h) **Human Rights Act, 2010;** and
- i) Any accompanying regulations

#### **4.8 No Adverse Actions or Reprisals**

**4.8.1** Any individual who reasonably believes they have experienced behaviour which is contrary to this Code of Conduct has the right to make a complaint or enforce their rights under this Code of Conduct without threats, reprisal or retaliation.

**4.8.2** Municipal officials must take no action, and must, to the best of their ability, ensure no action is taken, which would be reasonably perceived as a reprisal against any person acting in good faith who brings forward a complaint or information which leads to a complaint.

**4.8.3** Any retaliation or reprisal will be subject to the penalties as decided by the CAO.

#### **4.9 Allegations in Bad Faith**

**4.9.1** The following actions are prohibited by this Code of Conduct:

- a) Making a knowingly false complaint;
- b) Making a malicious complaint;
- c) Making a frivolous complaint;
- d) Making a complaint in bad faith; or
- e) Knowingly providing false information during a process established pursuant to this Code of Conduct

**4.9.2** Should an individual intentionally make a frivolous or malicious complaint, or make a complaint in bad faith or that is knowingly false, the Complainant may be subject to the

penalties as decided by the CAO. There will be no discipline for complaints which are ultimately determined to be unsubstantiated, but which were made in good faith.

#### **4.10 Investigation**

**4.10.1** A municipal official shall not hinder, obstruct, attempt to obstruct, interfere with, threaten, harass or fail to cooperate with a person conducting an investigation under the Act, regulations, and this Code of Conduct.

### **5.0 Other Remedies**

This Code of Conduct is not intended to discourage an individual from exercising their rights under the **Newfoundland and Labrador Human Rights Act, 2010**, the **Criminal Code** (Canada) or any other law of the province or of Canada. Participation in the complaint process in no way restricts an individual's right to file a complaint, within the prescribed time limits, under relevant legislation if the legislation allows.

### **6.0 Collective Agreements and Legislation**

If any portion of this Code of Conduct is inconsistent with a binding City collective agreement (where applicable) or applicable federal or provincial legislation, or is otherwise void, invalid, illegal or unenforceable, that portion of this Code of Conduct, and only that portion, shall have no application to the extent of the inconsistency. The remainder of this Code of Conduct or the application of such provision or portion thereof shall not be affected and shall continue in full force.

### **7.0 Code of Conduct Complaint and Investigation Procedure**

#### **7.1 Process**

**7.1.1** When a complaint is submitted alleging a breach of this Code of Conduct the Chief Administrative Officer shall follow the procedure set out herein.

#### **7.2 Receiving a Complaint**

**7.2.1** A complaint may be filed for a violation of this Code of Conduct and such a complaint shall be filed with and administered by the CAO or their designate. Where the CAO appoints a designate, any reference to the CAO in the process shall mean the designate.

**7.2.2** In the event that the Complainant or Respondent is the CAO, the complaint shall be filed with the City Clerk who shall require Council to appoint an external investigator to administer the complaint process. Where this occurs, any reference to the CAO in the process shall mean the appointed investigator.

**7.2.3** Where the Complainant or Respondent is the CAO, the following process will still apply but the appointed investigator shall administer the process.

**7.2.4** The complaint shall be in writing.

**7.2.5** Notwithstanding section 7.2.4 a complaint may be made by alternate means where the Complainant has a limited ability to read or write English, or has a disability or condition that impairs their ability to make a complaint, or where the CAO determines that it would be reasonable.

**7.2.6** A complaint shall include the following:

- a) The Complainant's name, or in the case of complaint filed by a bystander, the bystander's name;
- b) The names of the person or persons the complaint is about and the names of any witnesses;
- c) A summary of the complaint, and any steps taken to resolve it;
- d) The date that the breach of this Code of Conduct occurred, if known; and
- e) A description of how the complaint can be resolved, if applicable.

**7.2.7** Notwithstanding section 7.2.6, a CAO may accept a complaint confidentially or from a bystander where, in the opinion of the CAO, it is reasonable to do so, taking into account the public interest. A CAO may also, on their own motion, carry out a formal investigation under this Code of Conduct where the CAO reasonably believes there has been a violation of this Code of Conduct. The CAO will not be considered a Complainant in an own motion investigation.

**7.2.8** Where a complaint is filed by a bystander, the CAO will contact the subject of the alleged conduct to discuss the complaint and offer to discuss options for resolution under this Code of Conduct. The subject of the alleged conduct shall decide whether to pursue the complaint as a Complainant. If the subject of the alleged conduct does not want to pursue the complaint, then no further processes shall happen, and the bystander will be advised that the complaint has been closed. The closure of a bystander complaint shall not prevent the CAO from initiating a complaint under section 7.2.7

**7.2.9** A Complainant may withdraw their complaint in writing or by other means as per section 7.2.5. Notwithstanding, the CAO/investigator may continue investigating where it is reasonable to do so, taking into account the public interest.

**7.2.10** Where a complaint is received alleging criminal behaviour, or at any point it becomes apparent that criminal behaviour may have occurred, the CAO shall immediately contact law enforcement, and notify the Department of Municipal and Provincial Affairs through the Minister's Office.

**7.2.11** A person may file a complaint within 12 months of becoming aware of a Code of Conduct violation. The CAO may accept complaints outside of that timeframe in instances of harassment, bullying, use of public resources or fraud, or where it is reasonable to do so, taking into account the public interest.

### **7.3 Informal Resolution**

**7.3.1** Where the CAO determines the complaint to be interpersonal in nature, or relates to a disagreement, the CAO may ask the parties if they wish to resolve the complaint through mediation, or Alternative Dispute Resolution (ADR).

**7.3.2** ADR must not be used where, at the discretion of the CAO there is a significant power imbalance between the Complainant and Respondent, where there is a reasonable apprehension of harm, where the allegations involve issues of financial impropriety, sexual harassment, violence, criminality, where either party does not consent, or where other circumstances would prevent the success of ADR.

**7.3.3** Informal resolution efforts shall be concluded within 20 business days of the matter being referred to mediation or ADR, unless extended with consent of both parties and approval of the CAO.

### **7.4 Resolution or Agreement of Facts**

**7.4.1** Where a complaint is successfully resolved during informal resolution or is not resolved but the Complainant and Respondent agree on the facts, the CAO shall write a report containing the agreed upon facts, the outcome of informal resolution, an analysis (an assessment of the facts relative to this Code of Conduct) and a decision to either:

- a) dismiss the complaint or
- b) make a determination that a municipal official contravened this Code of Conduct.

**7.4.2** A copy of the written report and decision shall be provided to the CAO, unless the CAO is the Complainant or Respondent. Where the Complainant or Respondent is the CAO, a copy of the written report shall be provided to the Director of Corporate Services and the Manager of Human Resources.

**7.4.3** Where the Respondent is the CAO, a Director or the City Clerk, the decision from the report shall be provided to Council.

**7.4.4** Where a determination is made that a municipal official contravened this Code of Conduct, the CAO shall decide upon appropriate penalties in accordance with applicable labour and/or employment law. If the CAO is the Complainant, the investigator shall work with the Director of Corporate Services and the Manager of Human Resources to jointly decide upon appropriate penalties in accordance with applicable labour and/or employment law. If the CAO is the Respondent and a determination is made that the CAO contravened this Code of Conduct, the appointed investigator shall work with the Director of Corporate Services and the Manager of Human Resources to jointly develop and include, as part of the written report, a recommendation for appropriate penalties in accordance with applicable labour and/or employment law. The recommendation shall be reviewed and voted on by Council at a privileged meeting. If Council does not accept the recommendation, a written rationale for departing from the recommendation shall be maintained.

## **7.5 Formal Investigation**

**7.5.1** Where the complaint is not resolved during informal resolution or the facts are not agreed on, the complaint shall be investigated by the CAO, their designate or an investigator appointed under section 7.2.2, all of whom are referred to as the “investigator” hereafter.

**7.5.2** Within five business days of the failure of informal resolution, the investigator will notify the Complainant and Respondent that the matter has moved to formal investigation and provide each with a copy of the complaint. The investigator may extend this timeframe where it is reasonable to do so.

**7.5.3** The Respondent may provide a written response to the investigator no later than 10 business days after receipt of a copy of the complaint. The Respondent shall be advised that their response will be provided to the Complainant.

**7.5.4** An investigation shall be concluded within 40 business days of the failure of informal resolution. Upon request of the investigator, the CAO may approve up to an additional 40 business days for the completion of an investigation, unless the CAO is the Complainant or Respondent, in which case the approval of Council must be obtained.

**7.5.5** To complete the investigation, the investigator will interview the Complainant, the Respondent, and any witnesses or any other person deemed necessary by the investigator as part of the investigation. The investigator has the power to interview witnesses, take written statements and review documentation.

**7.5.6** Information collected during the investigation will include the names of the parties involved, the date of the incident, the details of the incident, names of witnesses and information gathered from them, notes from interviews and meetings, associated documents or evidence and actions taken as a result of the incident or complaint and investigation. All information obtained from the interviews will remain as confidential as possible.

**7.5.7** The investigator will prepare a written report within 20 business days of the conclusion of the investigation which either:

- a) Dismisses the complaint or
- b) Makes a determination that a municipal official contravened this Code of Conduct.

**7.5.8** The report shall at a minimum outline the investigative process, facts, analysis, test (an assessment of the facts relative to this Code of Conduct), and decision. The following format is flexible but may be of assistance.

- Introduction
- Executive Summary
- Investigative Process
- Background
- Events before the incident

- The incident(s) including the Complainant's allegation(s) and the Respondent's defence(s)
- Events after the incident
- Evidence
- Analysis
- Decision
- Recommendation(s) (in accordance with section 7.5.12)

**7.5.9** A copy of the written report and decision shall be provided to the CAO, unless the CAO is the Complainant or Respondent. Where the Complainant or Respondent is the CAO, a copy of the written report shall be provided to the Director of Corporate Services and the Manager of Human Resources. Any further disclosures of the written report or portion(s) of the written report shall be carried out in accordance with the **Access to Information and Protection of Privacy Act, 2015**, as amended. A copy of the written report shall not be maintained in an employee's personnel/Human Resource file.

**7.5.10** Where the Respondent is the CAO, a Director or the City Clerk, the Executive Summary from the Report shall be provided to Council.

**7.5.11** Where a determination is made that a municipal official contravened this Code of Conduct, the investigator shall decide upon appropriate penalties in accordance with applicable labour and/or employment law. If the CAO is the Complainant, the investigator shall work with the Director of Corporate Services and the Manager of Human Resources to jointly decide upon appropriate penalties in accordance with applicable labour and/or employment law.

**7.5.12** Where the CAO is the Respondent and a determination is made that the CAO contravened this Code of Conduct, the investigator shall work with the Director of Corporate Services and the Manager of Human Resources to jointly develop and include, as part of the written report, a recommendation for appropriate penalties in accordance with applicable labour and/or employment law. The recommendation shall be reviewed and voted on by Council at a privileged meeting. If Council does not accept the recommendation, a written rationale for departing from the recommendation shall be maintained. Following the privileged meeting, Council shall open the meeting to the public and confirm the conclusion of the investigator under section 7.5.7.

## **8.0 Conflict of Interest**

### **8.1 Disclosure Statements**

**8.1.1** A conflict of interest is defined as per section 5 of the Act.

**8.1.2** The CAO shall file a disclosure statement in accordance with section 4(2) of the Act.

**8.1.3** Directors and those reporting directly to Council shall file disclosure statements with the CAO, in the form set out in subsection 4(3) of the Act. These disclosure statements shall not be available for public inspection. Disclosure statements from spouses of these municipal officials are not required.

**8.1.4** Disclosure statements shall be filed with 30 days of employment, and on or before March 1 each year.

**8.1.5** Where there is a change in the information contained in employee disclosure statements, the official must report the change(s) to the CAO within 60 days of becoming aware of the change(s).

## **8.2 Suspicion of Conflict of interest**

**8.2.1** Where a municipal official suspects they may be in a conflict of interest as defined by section 5 of the Act:

- a) If the official is the CAO or reports directly to Council, the CAO or official must disclose the suspected conflict of interest directly to Council and Council shall determine, within a privileged meeting, whether the CAO or official is in a conflict of interest;
- b) All other municipal officials must disclose their suspicion to the CAO, and the CAO shall determine whether the municipal official is in a conflict of interest.

## **8.3 Conflict of Interest Complaints**

**8.3.1** Where an individual believes a municipal official has acted in a conflict of interest, the individual may file a complaint with the CAO or their designate. Where the CAO appoints a designate, any reference to the CAO in the process shall mean the designate. Where the CAO is the Complainant, the complaint shall be filed with the City Clerk who shall require Council to appoint an external investigator to administer the complaint process. The appointed investigator shall follow the complaint process outlined below for conflict-of-interest investigations. Where this occurs, any reference to the CAO in the process shall mean the appointed investigator.

**8.3.2** Where an individual believes a CAO has acted in a conflict of interest, the individual may file a complaint with the City Clerk who shall require Council to appoint an external investigator to administer the complaint process. The appointed investigator shall follow the complaint process outlined below for conflict-of-interest investigations. Where this occurs, any reference to the CAO in the process shall mean the appointed investigator.

**8.3.3** A complaint shall be in writing and shall include the following information:

- a) The Complainant's name;
- b) The names of the municipal officials the complaint is about;
- c) The nature of the conflict of interest; and
- d) The municipal officials actions in relation to the conflict of interest.

**8.3.4** Notwithstanding section 8.3.3., a complaint may be made by alternate means where the Complainant has a limited ability to read or write English, or has a disability or condition that impairs their ability to make a complaint, or where the CAO determines that it would be reasonable.

**8.3.5** Notwithstanding section 8.3.3, the CAO may accept a complaint confidentially where it is reasonable to do so, taking into account the public interest. A CAO may also, on their own motion, carry out a formal investigation under this Code of Conduct where the CAO reasonably believes there has been a conflict of interest involving municipal official(s). The CAO will not be considered a Complainant in an own motion investigation.

**8.3.6** A Complainant may withdraw their complaint in writing or by other means as per section 8.3.4. Notwithstanding, the CAO/investigator may continue investigating where it is reasonable to do so, taking into account the public interest.

**8.3.7** Where a complaint is received alleging criminal behaviour, or at any point it becomes apparent that criminal behaviour may have occurred, the CAO shall immediately contact law enforcement, and notify the Department through the Minister's Office.

**8.3.8** A person may file a complaint within 12 months of becoming aware of a conflict of interest under this Code of Conduct. The CAO may accept complaints outside of that timeframe where it is reasonable to do so, taking into account the public interest.

#### **8.4 Conflict of Interest Investigations**

**8.4.1** For complaints relating to the CAO, a Director, or an employee reporting directly to Council, the procedure below will be followed.

**8.4.2** Where a complaint is received relating to another municipal official, the process followed shall be at the discretion of the CAO.

**8.4.3** The CAO shall send a copy of the complaint to the Respondent within five business days after receipt of the complaint.

**8.4.4** The Respondent may provide a written response to the CAO no later than twenty business days after receipt of a copy of the complaint. The Respondent shall be advised that their response will be provided to the Complainant.

**8.4.5** Where there is a written response, the CAO shall send a copy to the Complainant within 3 business days after receipt of the written response.

**8.4.6** The CAO shall review the complaint and the Respondent's written response within ten business days after receipt of a written response, or where a written response is not provided, the CAO must review the complaint within ten business days after the time period to file the written response has expired, and must:

- a) prepare a written report of the complaint. The report shall at a minimum outline the facts, evidence, investigative process, analysis (an assessment of the facts and evidence relative to section 5 of the Act), conclusion, and recommendations;
- b) refer the complaint to Council, along with a copy of the report, to consider in a privileged meeting; and
- c) advise the Complainant in writing, that Council is considering the complaint.

**8.4.7** Within fifteen business days after receiving the report, Council shall, by resolution, advise the CAO to:

- a) dismiss the complaint;
- b) make a determination that the municipal official acted in a conflict of interest; or
- c) order an external third party investigation to determine whether the municipal official acted in a conflict of interest, except where the Complainant or Respondent is the CAO and an investigator has already been appointed.

**8.4.8** Where a municipal official, other than the CAO, has been found to be in a conflict of interest, whether through their own disclosure or by complaint and investigation, the CAO shall take appropriate actions to resolve the conflict of interest, except where the CAO is the Complainant. Where the CAO is the Complainant, the investigator shall work with the Director of Corporate Services and the Manager of Human Resources to decide upon appropriate actions to resolve the conflict of interest. This may include removal of the municipal official from particular duties, decisions, or discussions, or evaluating an affected decision.

**8.4.9** Where the CAO is the Respondent and has been found to be in a conflict of interest, whether through their own disclosure or by complaint and investigation, Council shall direct the actions to be taken to resolve the conflict of interest in accordance with recommendations of the investigator which recommendations shall be developed jointly between the investigator, the Director of Corporate Services and the Manager of Human Resources in accordance with applicable labour and/or employment law. This may include removal of the CAO from particular duties, decisions, or discussions, or evaluating an affected decision.

**8.4.10** Notwithstanding section 8.3.2. and 8.4.9, and in accordance with section 18(5) of the Act, the CAO may provide advice to Council on a matter in which the CAO has a conflict of interest where:

- a) The CAO disclosed the conflict of interest and the nature of the conflict of interest to the Council; and
- b) The Council made the request for advice knowing of the CAO's conflict of interest.

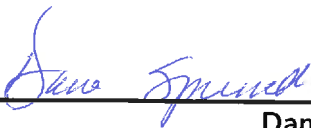
**8.4.11** The CAO may decide upon appropriate disciplinary penalties in accordance with applicable labour and/or employment law except where the CAO is the Complainant or Respondent. Where the CAO is the Complainant, the Director of Corporate Services and the Manager of Human Resources shall decide upon appropriate disciplinary penalties in accordance with applicable labour and/or employment law. Where the CAO is the Respondent,


the investigator shall work with the Director of Corporate Services and the Manager of Human Resources to jointly develop and include, as part of the written report, a recommendation for appropriate penalties in accordance with applicable labour and/or employment law. The recommendation shall be reviewed and voted on by Council at a privileged meeting. If Council does not accept the recommendation, a written rationale for departing from the recommendation shall be maintained. Following the privileged meeting, Council shall open the meeting to the public and confirm the decision under section 8.4.7.

## 9.0 Approvals

Approved by Committee of the Whole on February 28, 2023

Approved by Council on March 7, 2023

  
\_\_\_\_\_  
Dana Spurrell  
Chief Administrative Officer

Signed:   
\_\_\_\_\_  
Date