

By-Law No. TBD
Title: Code of Conduct for Municipal Officials By-Law
Passed by Council on

Pursuant to the authority conferred under the *City of St. John's Act*, RSNL 1990 c. C-17, and the *Municipal Conduct Act*, SNL 2021 c. M-20.01, as amended, and all other powers enabling it, the City of St. John's enacts the following By-Law.

CODE OF ETHICS BY-LAW

SHORT TITLE

1. This By-Law may be cited as the "Code of Conduct for Municipal Officials By-Law" hereinafter referred to as the "Code".

DEFINITIONS

2. In this Code,
 - (a) **"Affiliated Entity"** means any organization, group, foundation, club, or corporation that is affiliated wholly or partially with the City including the St. John's Transportation Commission.
 - (b) **"Annual Disclosure Statement"** means a disclosure statement filed pursuant to sections 114-115 of the Code;
 - (c) **"ATIPPA"** means the *Access to Information and Protection of Privacy Act*, 2015, SNL 2015 c A-1.2 as may be amended from time to time;
 - (d) **"City Manager"** means the City Manager or Acting City Manager appointed under the *City of St. John's Act*;
 - (e) **"Cohabiting Partner"** means a person with whom a Municipal Official is living in a conjugal relationship outside of marriage;
 - (f) **"Complaint"** means a written document alleging that a Municipal Official acted in a conflict of interest or committed a wrongdoing;
 - (g) **"Complainant"** means any person making a Complaint, including members of the public;
 - (h) **"Confidential Information"** means
 - (i) information received in confidence that is prohibited from being disclosed by common law or Municipal, Provincial or Federal statute or is protected from disclosure under ATIPPA or other legislation, which may include

information received in confidence from third parties of a corporate, commercial, scientific, or technical nature, information that is personal, and information that is subject to solicitor-client privilege;

- (ii) information received by the City pertaining to personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation;
 - (iii) matters relating to litigation, negotiations, or personnel;
 - (iv) Information which would reveal the substance of deliberation of a privileged meeting;
 - (v) Draft documents and legal instruments including reports, policies, by-laws and resolutions that have not been the subject matter of deliberation in a meeting open to the public; and
 - (vi) Law enforcement matters.
- (i) **“Conflict of Interest”** means a Municipal Official has a conflict of interest where in the making, or involvement in the making, of a decision
- (i) the Municipal Official's private interests are affected. A decision may affect, directly or indirectly, a Private Interest, where the decision may result in a gain or loss to the Municipal Official's Private Interests or the Private Interests of a Relative and a decision does not affect, directly or indirectly, a Private Interest where the decision affects the Municipal Official or a Relative of a Municipal Official as one of a broad class of the public; or
 - (ii) the Municipal Official is unable to act impartially on behalf of the City due to the Municipal Official's personal relationships. A Municipal Official is unable to act impartially where a reasonable person may conclude that the Municipal Official's personal relationship would result in favoritism or prejudice to the person to whom the Municipal Official has a personal relationship.
- (j) **“Contribution”** means a contribution of money, goods, or services, but does not include a donation by a natural person of their personal services, talents, or expertise or the use of their vehicle where it is given freely and not as part of their work in the service of an employer;
- (k) **"Council"** means St. John's Municipal Council as referred to in section 5 of the *City of St. John's Act*, RSNL 1990 c C-17;

- (l) **“Election”** means a general election, by-election, or special election called under the *Municipal Elections Act*, SNL 2001 c M-20.2, as may be amended from time to time;
- (m) **“Employee”** means any individual, that is employed by the City on a part-time, temporary, full-time, permanent, or contractual basis including all employees of Affiliated Entities, and includes the City Manager;
- (n) **“External Investigator”** means an independent, qualified third party hired to investigate a Complaint;
- (o) **“Gift Disclosure Statement”** means a disclosure statement provided to the City Clerk pursuant to section 109 of this Code and must contain:
 - (i) the nature of the gift or benefit;
 - (ii) the source and date of receipt;
 - (iii) the circumstances under which the gift was received;
 - (iv) the estimated value of the gift; and,
 - (v) whether the gift will at any point be left with the City.
- (p) **“Human Rights Act”** means the *Human Rights Act*, 2010, SNL 2010 c H-13.1 as may be amended from time to time;
- (q) **“Human Resources”** means the Department of Human Resources for the City;
- (r) **“Municipal Official”** means, unless the context indicates otherwise, an Employee of a municipality, including the City Manager, fire chiefs and fire fighters providing services for or to a municipality, and employees of the St. John’s Transportation Commission.
- (s) **“Political Activity”** is applicable to Municipal, Provincial and Federal politics, and includes:
 - (i) seeking nomination or being a candidate in an election;or
 - (ii) actively canvassing or campaigning for a political party or a candidate.
- (t) **“Private Interest”** includes:
 - (i) an asset, liability or financial interest;

- (ii) a source of income;
- (iii) a position of director or executive officer in a corporation, association or trade union, whether for profit or not for profit;
- (iv) membership in a board, commission or agency of the Crown in Right of Canada or a Province;
- (v) membership in or employment by a trade union where the trade union has entered into or is seeking to enter into a collective agreement with the City or an entity of a Council, with respect to any matter related to the administration or negotiation of the collective agreement, and
- (vi) a benefit or award,

but does not include an excluded private interest, which means:

- (i) cash on hand or on deposit with a financial institution that is lawfully entitled to accept deposits;
 - (ii) a position of director or executive officer in a Municipal entity or Municipal corporation;
 - (iii) membership in a Council committee;
 - (iv) purchase or ownership of a Municipal debenture;
 - (v) fixed value securities issued by a government or Municipality in Canada or an agency of a government or Municipality in Canada; and
 - (vi) a benefit or award of a value less than \$500.00 as prescribed in the *Municipal Conduct Act* regulations.
- (u) **“Protected Ground”** are those grounds of discrimination outlined in subsection 9(1) of the *Human Rights Act*;
 - (v) **"Relative"** means:
 - (i) a spouse or cohabiting partner;
 - (ii) a child, step-child, parent, step-parent, sibling, step-sibling, parent-in-law or sibling-in-law of the Municipal Official; and

- (iii) a person not referred to in subparagraphs (i) and (ii) who resides with the Municipal Official.
- (w) **“Report”** means any written reports generated through the Complaint process;
- (x) **“Reprisal”** means any measure taken or threatened against a Municipal Official as a result of making or being suspected of making a Complaint, or participating in or being suspected of participating in an investigation;
- (y) **“Respondent”** means a Municipal Official that is the subject of a Complaint;
- (z) **“Senior Management”** means the City Manager, City Clerk, City Solicitor, City Internal Auditor, all Deputy City Managers and all Directors.
- (aa) **“Special Meeting”** or **“Special Meeting of Council”** means a meeting held pursuant to section 40 of the *City of St. John’s Act* and are confidential and shall have the same meaning as “privileged meeting” as set out in s. 2 of the *Municipal Conduct Act*.
- (bb) **“Spouse”** means a person who is married to a Municipal Official, unless that person and the Municipal Official have made a separation agreement, or their support obligations and family property have been dealt with by a Court order;
- (cc) **“Volunteer”** means any individual that provides service on a volunteer basis for the City or Affiliated Entity;
- (dd) **“Wrongdoing”** means:
 - (i) an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act, including a municipal by-law or regulation; or
 - (ii) any breach of this Code whatsoever.

APPLICATION

3. This Code applies to all Municipal Officials acting in their official capacity, as well as to their off duty conduct when that off duty conduct is sufficiently connected to the business of the City or their conduct could reasonably discredit the reputation of the City, unless otherwise stated herein, at:
 - (i) City buildings, facilities, sites, offices or work environments;
 - (ii) locations visited by Municipal Officials while traveling on City-related business;

- (iii) conferences, meetings, vendor/supplier or customer sites;
- (iv) locations of work-based social gatherings; and
- (v) any location, physical or virtual while making comments pertaining to the City.

PURPOSE

4. The purpose of this Code is to:
- (a) encourage and maintain public confidence and trust in governance and administration of the City;
 - (b) promote integrity in the conduct of the affairs and operations of the City;
 - (c) provide Municipal Officials with guidelines for identifying, resolving and/or avoiding conflicts of interest, breaches of trust and unethical behaviour;
 - (d) encourage a respectful organization that is free from harassment and unlawful discrimination;
 - (e) promote transparency in governance;
 - (f) promote the protection of Confidential Information;
 - (g) promote high standards of professional conduct and values among Municipal Officials;
 - (h) establish rules of conduct for Municipal Officials; and
 - (i) comply with requirements set out in the *Municipal Conduct Act*, SNL 2021 Chapter M-20.01, as may be amended from time to time.

STATUTORY PROVISIONS REGULATING ETHICAL CONDUCT

- 5.(1) This Code operates along with and as a supplement to the existing statutes, as amended from time to time, governing the conduct of Municipal Officials including but not limited to:
- (a) *City of St. John's Act*;
 - (b) *Criminal Code of Canada*, RSC 1985 c C-46;
 - (c) *Municipal Elections Act*;

- (d) *ATIPPA*;
 - (e) *Occupational Health and Safety Act*;
 - (f) *Human Rights Act*; and
 - (g) *Municipal Conduct Act*.
- (2) Notwithstanding subsection (1), where a Federal or Provincial statute conflicts with this Code, the Federal or Provincial statute shall apply.

PART I
Ethical Conduct

CONDUCT AND RESPECT

6. All Municipal Officials shall abide by and are bound by the City's Respectful Workplace Policy. A breach of this policy shall be deemed a breach of this Code.

DUTY OF A MUNICIPAL OFFICIAL

7. A Municipal Official shall ensure that their actions do not place the interests of the City at risk or harm.
8. A Municipal Official shall not make any negative public statements about the City in any medium.
9. Any opinions expressed in public by a Municipal Official shall be solely for the purposes of genuine political discourse and must be objective, motivated by legitimate concern, accurate and factual, not malicious, and not include any information obtained through their employment with the City.

USE OF CITY PROPERTY, SERVICES, AND OTHER RESOURCES

10. No Municipal Official shall use, or permit the use of, City land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the City, except with the written permission of the City Manager or Council.
11. No Municipal Official shall obtain personal gain, financial or otherwise, from the use or sale of City property, including but not limited to, intellectual property, computer programs, technical innovations, or other items capable of being patented, except with the written permission of the City Manager or Council.
12. No Municipal Official shall obtain any personal gain, financial or otherwise, from the use or sale of information obtained through their position with the City.
13. A Municipal Official shall not engage in any conduct for any other organization than the City during their work hours, except with the permission of their manager.
14. Municipal Officials shall not steal property of the City and shall follow all policies and procedures mandated by the Department of Finance and Administration regarding the handling and accounting of City property.

MISUSE OF PUBLIC ASSETS AND FRAUD

15. Municipal Officials must report all expenses promptly, accurately, and with sufficient detail as set out by the City. A Municipal Official shall maintain all receipts, invoices, and other relevant financial records and details when claiming expenses.
16. 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 City Manager.

SOCIAL MEDIA

17. Municipal Officials must not engage in conduct on personal or City social media platforms which would bring the integrity of the City into disrepute.
18. Municipal Officials must, where possible, conduct municipal business with residents through official accounts and devices and avoid conducting City business on personal devices or through personal accounts.

POLITICAL ACTIVITY

19. Nothing in this section shall prohibit or discourage any Municipal Official from voting in any election.
20. A Municipal Official shall not engage in any Political Activity during work hours or while representing the City.
21. A Municipal Official shall not use City resources, including but not limited to facilities, equipment or supplies while engaging in Political Activity.
22. A Municipal Official shall not use their title or position in the City in any way that would lead any member of the public to infer the City is endorsing a candidate, political party.
23. Senior Management, Legal Department Staff and Election Staff shall not engage in Political Activity during an Election.
24. Any Municipal Official seeking election to Council 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 any applicable Human Resources policies in place.
25. A Municipal Official shall resign their position with the City if they are elected to Council.

26. Any mandate of the City or task that is within the scope of the Municipal Official's duties shall not be considered Political Activity.

PART II
Conflicts of Interest

AVOIDING CONFLICTS OF INTEREST

27. No Municipal Official shall grant preferential treatment to Relatives or to companies or organizations in which the Municipal Official or their Relatives have a direct Private Interest, and shall refrain, whenever possible, from official dealings with such persons, companies or organizations.
28. No Municipal Official shall use his or her position to promote the hiring of Relatives or friends, to discipline a Relative or friends or to participate in hiring decisions affecting Relatives or friends except with the permission of the Director of Human Resources or the City Manager.

MUNICIPAL OFFICIALS IN CONFLICT

29. (1) No Municipal Official shall work on or speak to any matter before the Council or any committee thereof where they have a Conflict of Interest.
- (2) A Municipal Official does not have a Conflict of Interest where:
- (a) the interest relates to a matter of general application that is to be decided by Council that is related to all the citizens of the City or a broad class thereof of which the Municipal Official or Relative is a member; and
- (b) the interest pertains to an Affiliated Entity.
30. In accordance with section 18(5) of the *Municipal Conduct Act*, the City Manager, within the scope of their employment, may provide advice to Council on a matter in which the City Manager has a Conflict of Interest where:
- (a) The City Manager 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 City Manager's Conflict of Interest.

OBLIGATION TO DISCLOSE

31. Where a Municipal Official has a Conflict of Interest in a matter, they shall advise their direct supervisor and shall not participate in any discussion of or work on the matter once the Conflict of Interest is stated.

POTENTIAL CONFLICT OF INTEREST

32. (a) If the City Manager believes they have a potential Conflict of Interest, they must disclose the potential Conflict of Interest directly to Council and Council shall determine, within a Special Meeting, whether the City Manager is in a Conflict of Interest;
- (b) All other Municipal Officials, including Volunteers, must disclose their potential Conflict of Interest to their supervisor, Human Resources, or the Legal Department and a determination shall be made as to whether the Municipal Official is in a Conflict of Interest.

CONFLICT OF INTEREST COMPLAINTS AGAINST CITY MANAGER

33. Where an individual believes the City Manager was or is in a Conflict of Interest, the individual may file a Complaint with the City Clerk within 6 months of becoming aware of the potential Conflict of Interest. The City Clerk will advise Council within 10 business days of receiving a Complaint.
34. Council, at their discretion, may assign a designate to investigate a Complaint.
35. A Complaint alleging a Conflict of Interest shall be in writing and include the following information:
 - (a) the nature of the Conflict of Interest;
 - (b) the Municipal Official's actions in relation to the Conflict of Interest; and
 - (c) any other information that Council, the City Manager, or their designate determines necessary.
36. Notwithstanding section 35, 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.

CONFLICT OF INTEREST INVESTIGATIONS INVOLVING CITY MANAGER

37. For Complaints relating to the City Manager the following procedure will be followed.
38. The City Clerk will advise Council within 10 business days of receiving a Complaint.
39. Council or its designate shall send a copy of the Complaint to the City Manager no later than five business days after receipt of the Complaint.

40. The City Manager may provide a written response to Council no later than 20 business days after receipt of a copy of the Complaint.
41. Where there is a written response, the City Clerk shall send a copy to the Complainant within one business day after receipt of the written response.
42. Council, or Council's designate, shall review the Complaint and the City Manager's written response within 10 business days after receipt of a written response, or where a written response is not provided, Council, or their designate, must review the Complaint within 10 business days after the time period to file the written response has expired, and shall:
 - (a) prepare a written Report of the Complaint;
 - (b) refer the Complaint to a Special Meeting of Council; and
 - (c) give written notice of the referral to the Complainant and the City Manager.
43. No later than 15 business days after receiving the Report, Council shall consider both the Complaint and the Report provided in a Special Meeting of Council, and may, by resolution:
 - (a) dismiss the Complaint;
 - (b) make a determination that the City Manager acted in a Conflict of Interest; or
 - (c) order an investigation by an External Investigator to determine whether the City Manager acted in a Conflict of Interest.
44. The External Investigator shall prepare a Report regarding the investigation and submit it to Council during a Special Meeting of Council.
45. Following review of the Report submitted, Council may, by resolution,
 - (a) dismiss the Complaint; or
 - (b) make a determination that the City Manager acted in a Conflict of Interest.
46. The City Solicitor shall provide a summary of the Complaint and ultimate decision of Council to the public. The summary prepared by the City Solicitor shall not disclose any particulars of the investigation and all Confidential Information shall be withheld.

47. Where Council decides that the City Manager has breached this Code, Council may issue any combination of:
- (a) a written reprimand to the City Manager;
 - (b) a suspension, with or without pay;
 - (c) a termination notice for the City Manager's employment; or
 - (d) any other relief as they deem appropriate for the circumstances.

CONFLICT OF INTEREST COMPLAINTS AGAINST MUNICIPAL OFFICIALS, EXCEPTING CITY MANAGER

48. For sections 48-64, a Municipal Official does not include the City Manager.
49. Where an individual believes a Municipal Official, was or is in a Conflict of Interest, the individual may file a Complaint with the City Manager within 6 months of becoming aware of the alleged Conflict of Interest.
50. The City Manager, at their discretion, may assign a designate to investigate a Complaint.
51. A Complaint alleging a Conflict of Interest shall be in writing and include the following information:
- (a) the nature of the Conflict of Interest;
 - (b) the Municipal Official's actions in relation to the Conflict of Interest; and
 - (c) any other information that the City Manager, or their designate determines necessary.
52. Notwithstanding section 51, 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.

CONFLICT OF INTEREST INVESTIGATIONS INVOLVING MUNICIPAL OFFICIALS

53. For Complaints relating to Municipal Officials the following procedure will be followed.
54. The City Manager or their designate shall send a copy of the Complaint to the Municipal Official no later than 14 business days after receipt of the Complaint.

55. The Municipal Official may provide a written response to the City Manager or their designate no later than 30 business days after receipt of a copy of the Complaint.
56. Where there is a written response, the City Manager or their designate shall send a copy to the Complainant within seven business days after receipt of the written response.
57. The City Manager, or their designate, shall review the Complaint and the Municipal Official's written response within 15 business days after receipt of a written response, or where a written response is not provided, the City Manager, or their designate, must review the Complaint within 15 business days after the time period to file the written response has expired, and shall:
 - (a) prepare a written summary of the Complaint;
 - (b) refer the Complaint to the City Manager; and
 - (c) give written notice of the referral to the Complainant and the Municipal Official.
58. No later than 15 business days after receiving the summary, the City Manager shall consider both the Complaint and the Report and may:
 - (a) dismiss the Complaint;
 - (b) make a determination that the Municipal Official is or was in a Conflict of Interest; or
 - (c) order an investigation by City Staff or an External Investigator to determine whether the Municipal Official acted in a Conflict of Interest.
59. The City Staff or External Investigator shall prepare a Report regarding the investigation and submit it to the City Manager.
60. Following review of the Report submitted, the City Manager may,
 - (a) dismiss the Complaint; or
 - (b) make a determination that the Municipal Official acted in a Conflict of Interest.
61. Where the City Manager decides that the Municipal Official has breached this Code, the City Manager may issue any combination of:
 - (a) a written reprimand to the Municipal Official;

- (b) a suspension, with or without pay;
- (c) a termination notice for the Municipal Official's employment; or
- (d) any other relief as they deem appropriate for the circumstances.

GENERAL PROVISIONS RELATED TO CONFLICT OF INTEREST INVESTIGATIONS

- 62. No Municipal Official shall make any Reprisal against any Municipal Official who makes a Complaint alleging a Conflict of Interest. A Municipal Official shall, to the best of their ability, ensure no action is taken, which would be reasonably perceived as a Reprisal against any Municipal Official acting in good faith who brings forward a Complaint or information which leads to a Complaint.
- 63. The Municipal Official shall not hinder, obstruct, attempt to obstruct, interfere with, threaten, harass or fail to cooperate with anyone conducting an investigation in the exercise of that person's duties or functions under this Act or the Regulations.
- 64. No Municipal Official shall make or file a vexatious Complaint and to do so is a breach of the Code.

PART III
Reporting Wrongdoings

WHISTLEBLOWER PROTECTION

65. The City is committed to the facilitation and disclosure of serious and significant matters in or relating to the City or any Municipal Official that are potentially unlawful or injurious to the public interest.
66. No Municipal Official shall take Reprisal against any Municipal Official, member of Council or member of the general public.

REPORTING A WRONGDOING

67. Any Municipal Official who has knowledge of Wrongdoing may make a Complaint under this Code within 6 months of becoming aware of the potential Wrongdoing, or pursue another remedy listed in section 81. Municipal Officials with any knowledge of a violation of the Code are encouraged to make a Complaint.

WRONGDOING COMPLAINTS AGAINST MUNICIPAL OFFICIALS, EXCEPTING CITY MANAGER

68. For sections 68-89, a Municipal Official does not include the City Manager.
69. The Complaint shall be in writing. Notwithstanding the preceding, 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.
70. A request by a Complainant making a Complaint under this Part to remain anonymous can be accepted by Human Resources when it is reasonable to do so, taking into account the public interest.
71. A Complainant may withdraw their Complaint in writing or by other means. Notwithstanding, Human Resources or the investigator may continue investigating where it is reasonable to do so, taking into account the public interest.
72. A Complainant shall not file a Complaint under this policy which is retributive, made in bad faith, or with malicious intent. A Complaint will not be deemed to be retributive, made in bad faith, or malicious solely because it is unfounded.
73. A Complainant shall make a Complaint within 6 months of becoming aware of a Code of Conduct violation. Human Resources 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.

74. Human Resources, or their designate, may in their discretion handle the Complaint through an informal process.
75. If there is a reasonable belief that a Wrongdoing has been committed, any person may make a Complaint.
76. A Complaint shall be signed by the Complainant or their solicitor and filed with Human Resources.
77. A Complaint shall include the following information, if known:
 - (a) The name of the individual alleged to have committed the Wrongdoing;
 - (b) A summary of the Complaint and any steps taken to resolve it;
 - (c) The date that the breach of the Code of Conduct occurred, if known; and
 - (d) A description of how the Complaint can be resolved, if applicable.
78. Human Resources may, at their discretion, designate an individual to review and investigate the Complaint.
79.
 - (1) Where in the opinion of Human Resources, or their designate, the Complaint has no reasonable prospect of being substantiated, Human Resources, or their designate, may dismiss the Complaint and provide notice of the dismissal to the Complainant.
 - (2) Notwithstanding subsection (1), in cases where a Complaint relates to theft, fraud, or any misappropriation of funds the Complaint shall be addressed by the City's Internal Auditor. Where in the opinion of the City Internal Auditor, the Complaint has no reasonable prospect of being substantiated, the City Internal Auditor may dismiss the Complaint and provide notice of the dismissal to the Complainant.

ALTERNATIVE REMEDIAL PROCESS

80. Where it appears to the appropriate authority that the Complaint under this part may be resolved satisfactorily through an informal process and where the Complainant and the Municipal Official consent, Human Resources, or their designate, may engage an external mediator or attempt to resolve the matter in an acceptable manner.
81. Nothing in this Code prohibits a Complainant from pursuing the following remedies:

- (a) a Municipal Official filing a union grievance under the appropriate articles of the applicable collective agreement;
 - (b) filing a human rights complaint under the *Human Rights Act*; or
 - (c) pursuing a criminal charge under the *Criminal Code of Canada*.
82. In the event that a Human Rights complaint or a grievance is filed by an eligible Municipal Official, any Complaint filed with respect to the same matter will not be investigated under this Code.

INVESTIGATION OF COMPLAINTS INVOLVING MUNICIPAL OFFICIALS

83. All Municipal Officials involved with the investigation process shall keep any information disclosed to them through the investigation process confidential.
84. The investigator shall to the fullest extent possible keep the Complainant's identity confidential. It shall not be considered a breach of this Code if the investigator discloses the identity of the Complainant to the Municipal Official.
85. Any investigation shall provide the Municipal Official the opportunity to give a full statement and provide any evidence they may have regarding the Complaint.
86. The investigator may cease an investigation, using their discretion, if they are of the opinion that:
- (a) the subject matter of the disclosure is more appropriately dealt with under an Act of the Provincial Legislature or the Parliament of Canada;
 - (b) the Complaint is frivolous or vexatious, or has not been made in good faith or does not deal with a sufficiently serious subject matter;
 - (c) so much time has elapsed between the date when the subject matter of the disclosure arose and the date when the disclosure was made that investigating it would not serve a useful purpose;
 - (d) the Complaint relates to a matter that results from a balanced and informed decision-making process on a public policy or operational issue;
 - (e) the Complaint does not provide adequate particulars about the Wrongdoing to properly conduct an investigation;
 - (f) the Complaint relates to a matter that is more appropriately dealt with under a collective agreement or employment agreement; or
 - (g) there is another valid reason for not investigating the disclosure.

87. Upon the conclusion of an investigation the investigator shall present a Report of their findings and conclusions to Human Resources, or their designate. The Complainant and Municipal Official shall receive a copy of the Report. This Report shall be confidential and shall not be released to the public without written consent of the Complainant, Municipal Official, and Director of Human Resources, or their designate.

DECISION OF HUMAN RESOURCES

88. After review of the Report, where Human Resources, or their designate, decides that a Municipal Official has not committed a Wrongdoing, they shall dismiss the Complaint.
89. Where Human Resources, or their designate, decides that a Municipal Official has breached this Code, Human Resources, or their designate, may issue any combination of:
- (a) a written reprimand to the Municipal Official;
 - (b) a suspension, with or without pay;
 - (c) a termination notice for the Municipal Official's employment; or
 - (d) any other relief as they deem appropriate for the circumstances.

WRONGDOING COMPLAINTS AGAINST CITY MANAGER

90. Where an individual believes the City Manager has committed a Wrongdoing, the individual may file a Complaint with the City Clerk within 6 months of becoming aware of the Wrongdoing. The City Clerk will advise Council within 10 business days of receiving a Complaint and provide the Complaint to Council at a Special Meeting of Council.
91. Upon being presented with the Complaint, Council shall review the Complaint and upon review of the Complaint, where Council decide that the Complaint has no reasonable prospect of being substantiated, Council may dismiss the Complaint and provide notice of the dismissal to the Complainant.
92. If upon reviewing the Complaint it is not dismissed by Council, the City Clerk shall transfer the Complaint to the City Solicitor for facilitation of the Complaint.
93. A Complaint shall include the following information, if known:
- (a) The name of the individual alleged to have committed the Wrongdoing;
 - (b) A summary of the Complaint and any steps taken to resolve it;

- (c) The date that the breach of the Code of Conduct occurred, if known; and
- (d) A description of how the Complaint can be resolved, if applicable.

ALTERNATIVE REMEDIAL PROCESS

- 94. Where the Complainant and the City Manager consent, the City Solicitor shall engage an external mediator to resolve the matter.
- 95. Nothing in this Code prohibits a Complainant from pursuing the following remedies:
 - (a) a Municipal Official filing a union grievance under the appropriate articles of the applicable collective agreement;
 - (b) filing a human rights complaint under the *Human Rights Act*; or
 - (c) pursuing a criminal charge under the *Criminal Code of Canada*.
- 96. In the event that a Human Rights complaint or a grievance is filed by an eligible Municipal Official, any Complaint filed with respect to same matter will not be investigated under this Code.

INVESTIGATION OF COMPLAINTS INVOLVING CITY MANAGER

- 97. Where the Complainant and/or City Manager do not consent to an alternative remedial process, or where an unsuccessful attempt has been made to resolve the Complaint satisfactorily through an informal process, the City Solicitor shall engage an External Investigator to carry out an investigation.
- 98. All Municipal Officials involved with the investigation process shall keep any information disclosed to them through the investigation process confidential.
- 99. The External Investigator shall to the fullest extent possible keep the Complainant's identity confidential. It shall not be considered a breach of this Code if the External Investigator discloses the identity of the Complainant to the City Manager.
- 100. Any investigation shall provide the City Manager the opportunity to give a full statement and provide any evidence they may have regarding the Complaint.
- 101. The External Investigator may cease an investigation, using their discretion, if they are of the opinion that:

- (a) the subject matter of the disclosure is more appropriately dealt with under an Act of the Provincial Legislature or the Parliament of Canada;
 - (b) the Complaint is frivolous or vexatious, or has not been made in good faith or does not deal with a sufficiently serious subject matter;
 - (c) so much time has elapsed between the date when the subject matter of the disclosure arose and the date when the disclosure was made that investigating it would not serve a useful purpose;
 - (d) the Complaint relates to a matter that results from a balanced and informed decision-making process on a public policy or operational issue;
 - (e) the Complaint does not provide adequate particulars about the Wrongdoing to properly conduct an investigation;
 - (f) the Complaint relates to a matter that is more appropriately dealt with under a collective agreement or employment agreement; or
 - (g) there is another valid reason for not investigating the disclosure.
102. Upon the conclusion of an investigation the External Investigator shall present a Report of their findings and conclusions to Council at a Special Meeting. The Complainant and the City Manager shall receive a copy of the Report. This Report shall be confidential and shall not be released to the public without written consent of the Complainant, City Manager, and Council.
103. After review of the Report, where Council decides that the City Manager has not committed a Wrongdoing, they shall dismiss the Complaint.

DISCIPLINE OF CITY MANAGER FOR WRONGDOING

104. Where Council determines that City Manager has contravened this Code or failed to comply with a penalty imposed under this section, Council may, by resolution, do one or more of the following:
- (a) a written reprimand to the City Manager;
 - (b) a suspension, with or without pay;
 - (c) a termination notice for the City Manager's employment; or
 - (d) any other relief as they deem appropriate for the circumstance.

Part IV
Disclosure

GIFTS AND PERSONAL BENEFITS

105. A Municipal Official shall not accept any fee, advance, gift, or personal benefit from persons or corporations who are engaged in business with the City or have the potential to influence decision making at the City, except with the consent of the Council or as permitted under section 108.
106. No Municipal Official shall accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of their duties.
107. A fee, advance, gift, or personal benefit provided with a Municipal Official's knowledge to a Relative or friend that is connected directly or indirectly to the performance of the Municipal Official's duties is deemed to be a gift for the purpose of the Code.
108. Notwithstanding sections 105 and 106, a Municipal Official may accept a fee, advance, gift, or personal benefit in the following circumstances:
- (a) the gift or benefit is compensation as authorized by law;
 - (b) the gift or benefit would normally accompany the responsibilities of the position and are received as an incident of protocol or social or professional obligation;
 - (c) the gift or benefit is a token of appreciation that does not exceed \$50.00 given in recognition of service to the City;
 - (d) the gift or benefit is a political contribution otherwise reported by law;
 - (e) the gift or benefit is given to the Municipal Official for the general use, benefit or enjoyment of a department as a whole;
 - (f) the gift or benefit is a suitable memento of a function honouring the Municipal Official;
 - (g) the gift or benefit is food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Municipal Official is either speaking or attending in an official capacity;

- (h) the gift or benefit is food and/or beverages consumed at banquets, receptions or similar events;
 - (i) the gift or benefit is communications to a department, including subscriptions to newspapers and periodicals; and,
 - (j) the gift or benefit is in the form of sponsorships and donations for charitable groups or events organized or run by a Municipal Official or a third party on behalf of a Municipal Official.
109. For gifts given under subsections 108(b)(e)(f)(g)(h)(i) and (j), if the value of the gift or benefit exceeds \$500.00 or if the total value received from any one source during the course of a calendar year exceeds \$500.00, a Municipal Official shall, within 30 days of receipt of the gift or reaching the annual limit, file a Gift Disclosure Statement with the City Clerk.
110. The Gift Disclosure Statement shall be a matter of public record.
111. Upon receiving a Gift Disclosure Statement, the City Clerk shall request that the City Solicitor examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the Municipal Official. In the event that the City Solicitor makes that preliminary determination, they shall call upon the Municipal Official to justify receipt of the gift or benefit.
112. After consideration of the justification given under section 111, the City Solicitor will determine if receipt of the gift was appropriate. If not appropriate, the City Solicitor may direct the Municipal Official to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City.
113. A Municipal Official shall follow the direction of the City Solicitor as provided for in section 112, and failure to follow said direction shall be a breach of the Code.

DISCLOSURE

114. (1) Within 30 days of commencing employment, and each year on or before March 1, the City Manager shall file with the City Clerk a Disclosure Statement disclosing assets and interests in accordance with s 4(2) of the *Municipal Conduct Act*.
- (2) Where, after the filing of a statement under subsection (1) there is a change in the information filed, the City Manager shall report the Change to Council no later than 60 days after the change occurred and file with the City Clerk an amended Disclosure Statement.
115. The City Manager shall disclose in the Annual Disclosure Statement,

- (a) ownership of real property or an interest in real property within the municipality;
 - (b) corporations in which 10% or more shares are held;
 - (c) partnerships and sole proprietorships in which 10% or more interest is held;
 - (d) ownership of businesses located within the municipality;
 - (e) corporations, associations or trade unions in which a position of director or executive officer is held;
 - (f) sources of income; and
 - (g) any other information the council determines necessary.
116. All Disclosure Statements shall be reviewed at a Special Meeting of Council no later than 30 days after filing.
117. All Disclosure Statements shall be made available to the public during normal City business hours.

TRAVEL EXPENSES

118. Travel expenditures by Municipal Officials shall be itemized and published quarterly in the Agenda of Regular Meetings of Council. Itemization of all out of province travel expenditures shall include:
- (a) the name of the person travelling;
 - (b) the event attended;
 - (c) the location of the event attended; and,
 - (d) travel expenses reimbursed by the City.

PART V
Workplace Protection

PURPOSE

119. The purpose of this Part is to:
- (a) maintain a work environment that is free from harassment and unlawful discrimination; and,
 - (b) encourage respect for the dignity and protection of human rights.

DISCRIMINATION AND HARASSMENT

120. The City prohibits discrimination as defined under the *Human Rights Act*, as amended from time to time.
121. The City prohibits harassment, as defined under the *Human Rights Act*.
122. For the purposes of this Code, harassment is defined as any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome. Harassment may be intended or unintended.
123. All Municipal Officials shall treat members of the public, one another, Members of Council, and all individuals appropriately and with respect. No Municipal Official shall use harassment, abusive language, bullying or intimidation tactics.
124. All Municipal Officials shall endeavor to ensure that the City work environment is free from discrimination, bullying and harassment.
125. The City prohibits a Municipal Official using their authority or influence in a manner that could reasonably be perceived as coercing or improperly influencing the actions of any individual.

PART VI
Protection of Confidential Information

TRANSPARENCY AND INTEGRITY

- 126. The City is actively committed to performing functions with integrity, accountability, and transparency.
- 127. The City recognizes that the public has a right to open government and transparent decision making.

COMMITTEE REPORTS

- 128. All Regular Meetings of Council, Committee of the Whole meetings, and Audit Committee meetings shall be open to the public.

DISCLOSURE OF CONFIDENTIAL INFORMATION

- 129. No Municipal Official shall disclose or release, in oral or written form, to any member of the public, any Confidential Information acquired by virtue of their position, except when required by law or authorized by Council to do so.
- 130. No Municipal Official shall use Confidential Information for personal or private gain, or for the gain of any individual or corporation.
- 131. No Municipal Official shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
- 132. No Municipal Official shall disclose a matter that has been discussed at a Special Meeting of Council or disclose the content of any such matter, or the substance of deliberations, of the Special Meeting unless Council authorizes release of the information.
- 133. A Municipal Official shall not have access to the personnel files of Employees, unless it is required to fulfill the duties of their employment with the City.

PART VII
Miscellaneous

COMPLIANCE WITH OTHER ACTS

134. Where a conflict exists between this Code and any Provincial law or regulation, the Provincial law or regulation shall apply to the extent to which there is a conflict.

REPEALING PREVIOUS BY-LAWS, REGULATIONS, AND AMENDMENTS

135. The following by-laws, regulations, and amendments are repealed:

- (a) *Code of Ethics By-Law;*
- (b) *Conflict of Interest By-Law;*
- (c) *Workplace Human Rights By-Law;*
- (d) *Whistleblower Protection By-Law;* and,
- (e) *Freedom of Information By-Law.*

SEVERABILITY

136. If any provision of this Code is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and the remainder of this Code shall remain operative and in force.

REVIEW OF THIS CODE

137. The provisions of the Code and the process prescribed herein shall be reviewed by the City Solicitor and the Director of Human Resources every four (4) years and a review report be prepared for Council's review. This review report shall be confidential. Council may release details from the review report to the public by a majority vote of Council.

CODE TRAINING

138. All Municipal Officials shall receive training related to this Code within 3 months of its establishment, and all new Municipal Officials shall receive training related to this Code within 3 months of commencing employment.