

By-Law No. TBD

Title: Code of Conduct for Councillors 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 CONDUCT FOR COUNCILLORS

SHORT TITLE

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

DEFINITIONS

2. In this Councillor 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) **"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;
 - (c) **"City Manager"** means the City Manager or Acting City Manager appointed under the *City of St. John's Act*;
 - (d) **"Cohabiting Partner"** means a Person with whom a Councillor is living in a conjugal relationship outside of marriage;
 - (e) **"Complainant"** means any Person making a Complaint including members of the public;
 - (f) **"Complaint"** means a written document alleging that a Councillor acted in a Conflict of Interest or committed a Wrongdoing;

(g) **“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.

(h) **“Conflict of Interest”** means a Councillor is in a position whereby in the making or involvement in the making of a decision:

- (i) a Councillor’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 Councillor’s Private Interests or the Private Interests of a Relative. A decision does not affect, directly or indirectly, a Private Interest where the decision affects the Councillor or a Relative as one of a broad class of the public; or
- (ii) a Councillor is unable to act impartially on behalf of the City due to the Councillor’s personal relationships. A Councillor is unable to act impartially where a reasonable Person may conclude that the Councillor’s personal relationships would result in favoritism or prejudice to the Person(s) to whom the Councillor has a personal relationship.

- (i) **“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;
- (j) **“Council”** means St. John's Municipal Council as referred to in section 5 of the *City of St. John's Act*;
- (k) **“Councillor”** means a member of Council as defined under section 5 of the *City of St. John's Act* and for the purposes of this Councillor Code, shall include a former Councillor;
- (l) **“Disclosure Statement”** means a form set by Council to be filed within 30 days of a Councillor taking office, and each year on or before March 1st, which is filed under Part 4 of this Councillor Code;
- (m) **“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;
- (n) **“Employee”** means any individual, who is employed by the City of St. John's on a part-time, temporary, full-time, permanent, or contractual basis including all employees of Affiliated Entities;
- (o) **“External Investigator”** means an independent, qualified third party hired to investigate a Complaint;
- (p) **“Gift Disclosure Statement”** means a statement filed under Part 4 of this Councillor 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.
- (q) **“Human Rights Act”** means the *Human Rights Act, 2010*, SNL 2010 c. H-13.1 as may be amended from time to time;

- (r) **“Person”** means any individual, including but not limited to Employees, Affiliated Entities and Volunteers;
- (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 Affiliated Entity 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) **"Relative"** means
 - (i) a Spouse or Cohabiting Partner;
 - (ii) a child, stepchild, parent, stepparent, sibling, stepsibling, parent-in-law or sibling-in-law of the Councillor; and
 - (iii) a Person not referred to in subparagraphs (i) and (ii) who resides with the Councillor.
- (v) **"Report"** means any written reports generated through a Complaint process;
- (w) **"Reprisal"** means any measure taken or threatened against a Person as a result of making or being suspected of making a Complaint or participating in or being suspected of participating in an investigation;
- (x) **"Special Meeting"** or **"Special Meeting of Council"** means a meeting held pursuant to sections 38 and 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 section 2 of the *Municipal Conduct Act*;
- (y) **"Spouse"** means a Person to whom a Councillor is married, unless that Person and the Councillor have made a separation agreement, or their support obligations and family property have been dealt with by a Court order;
- (z) **"Volunteer"** means any individual that provides service on a volunteer basis for the City or Affiliated Entity;
- (aa) **"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) a breach of this Councillor Code other than a Conflict of Interest.

APPLICATION

- 3. This Councillor Code applies to current and former Councillors 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, including unless otherwise stated herein, at:
 - (i) City buildings, facilities, sites, offices, or work environments;
 - (ii) locations visited 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 Councillor 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 Council 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 discrimination;
 - (e) promote transparency in governance;
 - (f) promote the protection of Confidential Information;
 - (g) promote high standards of professional conduct and values; and

- (h) comply with requirements set out in the *Municipal Conduct Act*, as may be amended from time to time.

STATUTORY PROVISIONS REGULATING ETHICAL CONDUCT

- 5. (1) This Councillor Code operates along with and as a supplement to existing statutes, as amended, governing the conduct of Council 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*, RSNL 1990 c. O-3;
 - (f) Human Rights Act; and
 - (g) *Municipal Conduct Act*.
- (2) Notwithstanding subsection (1), where a Federal or Provincial statute conflicts with this Councillor Code, the Federal or Provincial statute shall apply.

Part 1

Ethical Conduct

CONDUCT

6. All members of Council 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 Councillor Code.
7. A Councillor shall abide by Council's Rules of Procedure.
8. A Councillor is 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 Councillor in a Conflict of Interest.
9. A Councillor shall not communicate on behalf of the City unless they receive the prior authorization of Council.

PUBLIC ASSETS AND FRAUD

10. A Councillor shall not request, use, or permit the use of City vehicles, land, equipment, materials, facilities or other property for a Private Interest, or personal convenience, except where such privileges are granted to the general public or where the Councillor has the prior written permission of Council.
11. A Councillor shall not obtain any Private Interest from the use or sale of City property, including but not limited to, intellectual property.
12. A Councillor shall not obtain any Private Interest from the use or sale of information obtained through their position on Council.
13. A Councillor shall not grant preferential treatment to a Relative or to companies or organizations in which the Councillor or Relative have a direct Private Interest, and shall refrain, whenever possible, from official dealings with such Persons, companies, or organizations.
14. A Counsellor shall not use their position to promote the hiring of a Relative or a friend, to discipline a Relative or a friend or to participate in hiring decisions affecting a Relative or a friend.

SOCIAL MEDIA

15. All Councillors posting to their personal media accounts should be consistent with their duties and obligations as Councillors including, but not limited to, those obligations under this Councillor Code and all applicable City policies and must not bring the integrity of Council or the City into disrepute.
16. Any opinions expressed in public by a Councillor while acting in their capacity as City Councillor shall be solely for the purposes of genuine political discourse and shall not include any Confidential Information obtained through their position with the City.
17. Councillors shall, where possible, conduct Council business through City operated accounts and devices and shall avoid conducting Council business on personal devices or through personal accounts.

POLITICAL ACTIVITY

18. Nothing in this section shall prohibit or discourage any Councillor from voting in any Election.
19. A Councillor shall not engage in any Political Activity while acting in their capacity as a Councillor or while representing the City.
20. A Councillor shall not use City resources, including but not limited to facilities, equipment or supplies while engaging in Political Activity.
21. A Councillor 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 or political party.
22. A Councillor seeking election to any level of government, except a Councillor who is seeking re-election to Council, shall take an unpaid leave of absence from the time they file their nomination papers until election day. The ability to take leave is subject to any applicable City Human Resources policies in place.
23. A Councillor shall resign their position with the City if they are elected to any level of government, except in the case of a Councillor who is re-elected to Council.

Part 2
Conflict of Interest Complaint

24. If any Person is of the opinion that a Councillor or former Councillor is or was in a Conflict of Interest, that Person shall file a Complaint with the City Manager within 6 months of becoming aware of the potential Conflict of Interest.
25. The Complaint shall be in writing. Notwithstanding the preceding, a Complaint submitted under Part 2 or Part 3 of this Councillor Code 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.
26. The City Manager in their discretion, may assign a designate to facilitate a Complaint.
27.
 - (1) No Councillor shall vote on or speak to any matter before Council or any committee thereof where they have a Conflict of Interest in which their Private Interest, or that of a Relative, may be affected or if the Councillor is unable to act impartially due to personal relationships.
 - (2) A Councillor 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 Councillor or Relative is a member;
or
 - (b) the interest pertains to an Affiliated Entity.
28.
 - (1) Where a Councillor knows or ought reasonably to know that they have a Conflict of Interest in a matter before Council, the Councillor shall:
 - (a) declare the Conflict of Interest before any consideration or discussion of the matter;
 - (b) disclose the general nature of the Conflict of Interest;
 - (c) refrain from participating in any discussion relating to the matter;

- (d) refrain from voting on any question, decision, recommendation, or other action to be taken relating to the matter;
 - (e) leave the room in which the meeting is held for the duration of the consideration of the matter; and
 - (f) where the Councillor declaring a Conflict of Interest is the presiding officer, they shall vacate the chair for the matter.
 - (2) Notwithstanding section 28(1)(e), where the meeting referred to in subsection (1) is open to the public, the Councillor may remain in the room.
 - (3) A Councillor shall not attempt, in any way, before, during or after the meeting, to influence
 - (a) the vote of other Councillors; or
 - (b) any policy advice provided to Council regarding the matter.
 - (4) A declaration of Conflict of Interest under subsection (1) and the general nature of the Conflict of Interest shall be recorded in the minutes of Council or a committee of Council, where the declaration was made at a committee meeting.
29. (1) Where a Councillor is uncertain as to whether or not they are in a Conflict of Interest, the Councillor shall disclose the nature of the possible Conflict of Interest to Council who may decide whether a Conflict of Interest exists by a majority vote. In the event that the Council vote is tied, the Councillor shall be considered to have a Conflict of Interest.
- (2) A Councillor whose possible Conflict of Interest is being voted on is not entitled to vote.
- (3) Where Council determines by a majority vote that a Councillor does not have a Conflict of Interest and a Complaint is subsequently filed under this Councillor Code and it is determined that the Councillor did have a Conflict of Interest, Council may invalidate the decision of Council in which the Councillor acted in a Conflict of Interest but shall not impose any penalties against the Councillor.

30. A Complaint alleging a Conflict of Interest shall include the following:
- (a) the nature of the Conflict of Interest;
 - (b) the Councillor's or former Councillor's actions in relation to the Conflict of Interest; and
 - (c) any other information the City Manager or their designate determines necessary.
31. The City Manager or their designate shall provide a copy of the Complaint to the Councillor or former Councillor no later than 5 business days after receipt of the Complaint.
32. (1) The Councillor or former Councillor may provide a written response respecting the Complaint to the City Manager or their designate no later than 20 business days after receipt of a copy of the Complaint.
- (2) Where the Councillor or former Councillor provides a written response under subsection (1), the City Manager or their designate shall provide a copy of the written response to the Complainant within one business day after receipt of the written response.
33. The City Manager or their designate shall review the Complaint and the Councillor's/former Councillor's written response no later than 10 business days after receipt of the written response, or where a written response is not filed, the City Manager or their designate shall review the Complaint no later than 10 business days after the time period to file the written response has expired, and shall:
- (a) prepare a Report regarding the Complaint;
 - (b) refer the Complaint and the response, if any, to a Special Meeting of Council along with a copy of the Report; and
 - (c) give written notice of the referral to the Complainant and the Councillor or former Councillor.

34. No later than 15 business days after receiving the Report referred to in section 33, Council shall consider the Complaint, any response, and the Report provided in a Special Meeting of Council and may, by resolution,
- (a) dismiss the Complaint;
 - (b) determine that the Councillor or former Councillor acted in a Conflict of Interest; or
 - (c) order an investigation by an External Investigator to determine whether the Councillor or former Councillor acted in a Conflict of Interest.
35. A Councillor or a Person shall not hinder, obstruct, attempt to obstruct, interfere with, threaten, harass, or fail to cooperate with anyone conducting an investigation under section 34(c).
36. The External Investigator assigned under section 34(c) shall prepare a Report regarding the investigation and submit it during a Special Meeting of Council.
37. Following review of the investigation Report submitted under section 36 Council may, by resolution,
- (a) dismiss the Complaint; or
 - (b) make a determination that the Councillor or former Councillor acted in a Conflict of Interest.
38. After Council's decision made under section 37, the Report submitted to Council shall be tabled at a Regular Meeting of Council with appropriate redactions of Confidential Information and personal information as required under ATIPPA or applicable law.
39. (1) Where Council determines that a Councillor has acted in a Conflict of Interest, Council:
- (a) shall, by resolution, require the Councillor to vacate their seat on Council and declare that the Councillor is not eligible to be nominated as a candidate until the nomination period for the next general election; and

- (b) may, by resolution, invalidate the decision of Council in which the Councillor acted in a Conflict of Interest.
- (2) Notwithstanding subsection (1), where Council determines that a Councillor acted in a Conflict of Interest through inadvertence or a genuine error in judgment, Council may, by resolution, allow the Councillor to keep their seat on Council and may do one or more of the following:
 - (a) reprimand the Councillor;
 - (b) invalidate the decision of Council in which the Councillor acted in a Conflict of Interest;
 - (c) require the Councillor to attend training as determined by Council;
 - (d) suspend the Councillor from Council committees or other additional activities or duties for a period of no more than 3 months; and
 - (e) suspend the Councillor from Council, without remuneration, for a period of no more than 3 months.
- 40. Where Council determines that a former Councillor has acted in a Conflict of Interest, Council may do one or more of the following:
 - (a) reprimand the former Councillor;
 - (b) invalidate the decision of Council in which the former Councillor acted in a Conflict of Interest; and
 - (c) declare that the former Councillor is not eligible to be nominated as a candidate until the nomination period for the next general election.
- 41. Where a Councillor is unable to attend regular public meetings of Council for 3 successive months because of a suspension due to a finding of a Conflict of Interest, their absence from the public meetings is considered to be with leave of Council.
- 42. No Councillor or former Councillor shall make any Reprisal against any Person who makes a Complaint alleging a Conflict of Interest. A Councillor or former Councillor shall, 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.

43. No Councillor or former Councillor shall file a Complaint under this Councillor Code, which is retributive, made in bad faith, or made with malicious intent.
44. A Complaint against a Councillor or former Councillor shall not be deemed to be retributive, made in bad faith, or malicious solely because it is determined to be unfounded or is dismissed.

Part 3

Wrongdoing Complaint

45. The City is committed to the facilitation and disclosure of serious and significant matters in or relating to the City or any Councillor that are potentially unlawful or injurious to the public interest.
46. Any Person who has knowledge of Wrongdoing by a Councillor or former Councillor shall make a Complaint under this Councillor Code within 6 months of becoming aware of the potential Wrongdoing. The City Solicitor may accept a Complaint of Wrongdoing outside of that timeframe in instances of harassment, bullying, use of public resources or fraud, or where the City Solicitor in their discretion determines it is reasonable to do so, taking into account the public interest.
47. A Complaint of Wrongdoing shall be signed by the Complainant or their solicitor and filed with the City Solicitor. Along with the City Solicitor, the Complaint of Wrongdoing may also be filed with:
 - (a) the City Internal Auditor; or
 - (b) in the case of an Employee or Volunteer, their direct supervisor or the Director of Human Resources.
48. A Person making a Complaint under this Part may request to remain anonymous and every effort shall be made to respect that request however, depending on the nature of the Complaint anonymity cannot be guaranteed.
49. The City Solicitor or their designate may, in their discretion, address the Complaint through an informal process or proceed to an investigation however, the Complaint shall proceed to an investigation if instructed to do so by the Person who made the Complaint.
50. A Complaint under this Part shall include the following information:
 - (a) a description of the Wrongdoing;
 - (b) the name of the Councillor or former Councillor alleged to have committed the Wrongdoing; and

- (c) any further details or facts that would be necessary to investigate the Wrongdoing.
- 51.
 - (1) Where in the opinion of the City Solicitor, or their designate, the Complaint has no reasonable prospect of being substantiated, the City Solicitor may dismiss the Complaint and provide notice of the dismissal to the Complainant. The City Manager shall submit a Report to a Special Meeting of Council providing a summary of the matter with Confidential Information withheld.
 - (2) Notwithstanding subsection (1), in cases where a Complaint relates to theft, fraud, or any misappropriation of funds, the City's Internal Auditor shall address the Complaint. 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. The City Manager shall submit a Report to a Special Meeting of Council providing a summary of the matter with Confidential Information withheld.

ALTERNATIVE REMEDIAL PROCESS

- 52. Where it appears to the City Solicitor, or their designate, that a Complaint under this Part may be resolved satisfactorily through an informal process, and where the Complainant and the Councillor or former Councillor consent, the City Solicitor may engage an external mediator or attempt to resolve the matter in an acceptable manner.
- 53. The City Manager or their designate shall submit a Report to a Special Meeting of Council providing a summary of the matter if it satisfactorily resolved through an informal process or if it is not resolved but the Complainant and Councillor or former Councillor agree on the facts. If the matter is not resolved but facts are agreed upon, Council shall review the Report in a Special Meeting. In a Regular Meeting of Council, Council shall dismiss the Complaint or determine that the Councillor or former Councillor contravened the Councillor Code. In the event the Report is tabled at the Regular Meeting of Council or otherwise released, the Report shall have all appropriate redactions of Confidential Information and personal information as required under ATIPPA.
- 54. Nothing in this Councillor Code prohibits a Complainant from pursuing the following remedies:

- (a) an Employee 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*.
55. In the event that a Human Rights complaint, a grievance is filed by an eligible Employee, or a criminal charge is laid, any Complaint filed with respect to same matter will not be investigated under this Councillor Code. The City Manager or their designate shall submit a Report to a Special Meeting of Council providing a summary of the matter proceeding as set out in section 54 with Confidential Information withheld.

EXTERNAL INVESTIGATOR

56. (1) In the event a Complaint under this Part has not been dismissed, or has not proceeded to an alternative remedial process, or has not been otherwise resolved, the City Solicitor shall hire an External Investigator to investigate the Complaint of Wrongdoing. The City Manager or their designate shall inform Council of the Complaint proceeding to an External Investigator in a Special Meeting of Council with all Confidential Information withheld.
- (2) For any Complaint relating to theft, fraud, or any misappropriation of funds the City Internal Auditor, or their designate, may investigate the Complaint or shall participate in an investigation being conducted by an External Investigator.
57. Anyone involved with the investigation process shall keep all information disclosed to them through the investigation confidential.
58. The External Investigator shall to the fullest extent possible keep the Complainant's identity confidential if requested by the Complainant. It shall not be considered a breach of this Councillor Code if the External Investigator discloses the identity of the Complainant to the Councillor or former Councillor.
59. Any investigation shall provide the Councillor or former Councillor the opportunity to give a full statement and provide any evidence they may have regarding the Complaint of Wrongdoing.

60. The External Investigator may in their discretion cease an investigation if they are of the opinion that:
- (a) the subject matter of the Complaint 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 Complaint arose and the date when the Complaint 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 investigate;
 - (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.
61. Upon the conclusion of an investigation the External Investigator shall file a Report with the City Solicitor and shall present the Report of their findings and conclusions to Council at a Special Meeting. The Complainant, Councillor or former Councillor shall receive a copy of the Report. The Report shall be confidential and shall not be released to the public without written consent of the Complainant, Councillor/former Councillor, and Council, and with all appropriate redactions of Confidential Information and personal information required under ATIPPA.
62. After review of the Report, where Council decides that a Councillor or former Councillor has not committed a Wrongdoing, Council shall dismiss the Complaint at a Regular Meeting.
63. At a Regular Meeting, where Council determines that a Councillor has contravened this Councillor Code or failed to comply with a penalty imposed under this section, Council may, by resolution, do one or more of the following:

- (a) reprimand the Councillor;
- (b) require the Councillor to attend training as determined by Council;
- (c) suspend the Councillor from Council committees or other additional activities or duties for a period of no more than 3 months;
- (d) suspend the Councillor from Council, without remuneration, for a period of no more than 3 months; and
- (e) where one or more of the following apply, make an application to Court seeking that the Councillor vacate their seat on Council and that the Councillor be ineligible to be nominated as a candidate until the nomination period for the next general election:
 - (i) the contravention of the Councillor Code resulted in loss of public trust;
 - (ii) the contravention of the Councillor Code consisted of violence or the credible threat of violence; and
 - (iii) the Councillor has contravened the Councillor Code more than once and has refused to comply with the penalties imposed.

64. At a Regular Meeting, where Council determines that a former Councillor has contravened the Councillor Code, Council may, by resolution, do one or both of the following:

- (a) reprimand the former Councillor; and
- (b) where one or more of the following apply, declare that the former Councillor is ineligible to be nominated as a candidate until the nomination period for the next general election:
 - (i) the contravention of the Councillor Code resulted in loss of public trust,
 - (ii) the contravention of the Councillor Code consisted of violence or the credible threat of violence, and

- (iii) the former Councillor has contravened the Councillor Code more than once and has refused to comply with penalties imposed.

65. In the event of a Complaint being dismissed or substantiated under ss 62, 63 and 64, the City Solicitor shall prepare a summary of what occurred for the Regular Meeting in which Council's decision is made. The summary prepared by the City Solicitor shall be in accordance with ATIPPA with all applicable Confidential Information and personal information withheld in accordance with all applicable laws.

APPEAL

66. (1) A Complainant, Councillor or former Councillor whom a decision of Council under this Councillor Code is made against may appeal a decision or order made under:

- sections 34(a) and (b);
- section 37;
- section 39(1)(a);
- section 39(2)(e);
- section 40(c);
- section 62;
- section 63(d) and (e); and
- section 64(b).

no later than 21 days after receiving notice of that decision or order to the Supreme Court of Newfoundland and Labrador.

(2) An appeal under this section does not stay the decision or order being appealed unless the Supreme Court of Newfoundland and Labrador orders otherwise.

Part 4
Disclosure

67. A Councillor shall report all expenses promptly, accurately, and with sufficient detail as required by the City. A Councillor shall maintain all receipts, invoices, and other relevant financial records and details when claiming expenses.
68. (1) Within 30 days of taking office and each year on or before March 1, each Councillor shall file with the City Clerk a Disclosure Statement disclosing assets and interests in accordance with section 4(1) of the *Municipal Conduct Act*.
- (2) Where a Councillor fails to comply with subsection (1), the City Clerk shall forthwith notify them in writing of the failure to comply, and the Councillor shall, within 30 days of receiving the notification, file a Disclosure Statement. Failure to file the Disclosure Statement shall be a breach of the Councillor Code.
- (3) Where after the filing of a Disclosure Statement under subsection (1) or (2) there is a change in the information filed, the Councillor 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.
69. A Disclosure Statement filed by a Councillor shall include the following information in relation to the Councillor and their Spouse or Cohabiting Partner:
- (a) ownership of real property or an interest in real property within the City;
 - (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 City;
 - (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 Council determines necessary.

70. All Disclosure Statements shall be reviewed at a Special Meeting of Council no later than 30 days after filing.
71. All Disclosure Statements shall be made available to the public during normal City business hours.

GIFTS AND PERSONAL BENEFITS

72. A Councillor 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 as permitted under section 75.
73. A Councillor shall not accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of their duties.
74. A fee, advance, gift, or personal benefit provided with a Councillor's knowledge to a Relative or friend that is connected directly or indirectly to the performance of the Councillor's duties is deemed to be a gift for the purposes of this Councillor Code.
75. Notwithstanding sections 73 and 74, a Councillor 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 \$500.00 given in recognition of service to the City;
 - (d) the gift or benefit is a political Contribution otherwise reported by law in accordance with the *Municipal Elections Act*;
 - (e) the gift or benefit is a suitable memento of a function honouring the Councillor;

- (f) 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 Councillor is either speaking or attending in an official capacity;
 - (g) the gift or benefit is food and/or beverages consumed at banquets, receptions, or similar events;
 - (h) the gift or benefit is communications to the offices of a Councillor, including subscriptions to newspapers and periodicals.
76. For gifts given under subsections 75(b)(e)(f)(g) and (h), 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, the Councillor shall, within thirty (30) days of receipt of the gift or reaching the annual limit, file a Gift Disclosure Statement with the City Clerk.
77. A Gift Disclosure Statement shall be a matter of public record.
78. 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 their opinion, create a conflict between a Private Interest and the public duty of the Councillor. In the event that the City Solicitor makes that preliminary determination, they shall call upon the Councillor to justify receipt of the gift or benefit.
79. After consideration of the justification given under section 78, the City Solicitor will determine if receipt of the gift was appropriate. If not appropriate, the City Solicitor may direct the Councillor 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.
80. A Councillor shall follow the direction of the City Solicitor as provided for in section 79, and failure to follow said direction shall be a breach of this Councillor Code.

TRAVEL EXPENSES

81. A Councillor's travel expenditures 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 5
Workplace Protection

PURPOSE

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

DISCRIMINATION, HARASSMENT AND BULLYING

83. The City prohibits discrimination as defined under the Human Rights Act.
84. The City prohibits harassment as defined under the Human Rights Act.
85. For the purposes of this Councillor Code, harassment is defined as any objectionable or offensive behaviour that is reasonably known or ought to be reasonably known to be unwelcome. Harassment may be intended or unintended.
86. The City prohibits any behaviour which is abusive, harassing, intimidating, or threatening towards any Person, and a Councillor is prohibited from any such behaviour.
87. All members of Council shall treat members of the public, one another, Employees, and all Persons appropriately and with respect. No Councillor shall use abusive language, bullying, harassing or intimidation tactics.
88. All members of Council shall endeavor to ensure that the City work environment is free from discrimination, bullying and harassment.

PART 6
Protection of Confidential Information

TRANSPARENCY AND INTEGRITY

89. The City is actively committed to performing functions with integrity, accountability, and transparency.

SPECIAL MEETINGS OF COUNCIL

90. Special Meetings of Council may be held if the subject matter being considered relates to, or is one or more of, the following:
- (a) policy advice or recommendations concerning a matter that is in its preliminary stages and respecting which discussions in public could prejudice Council's ability to carry out its activities or negotiations;
 - (b) legal advice and opinions provided to the City, information that is subject to settlement privilege, solicitor and client privilege or litigation privilege of the City, or information of a Person other than the City that is subject to solicitor and client privilege or any privilege;
 - (c) information harmful to public security or law enforcement matters;
 - (d) information from any workplace investigation;
 - (e) information harmful to intergovernmental relations;
 - (f) information harmful to the financial or economic interests of the City or an Affiliated Entity;
 - (g) information related to the City as an employer, including personnel or labour relations matters or collective bargaining or collective agreements;
 - (h) information harmful to personal privacy, including personal matters about an identifiable individual;
 - (i) information related to the acquisition, sale, lease, and security of Municipal property;

- (j) litigation or potential litigation affecting the City or Affiliated Entities;
- (k) contract negotiations of the City or Affiliated Entities;
- (l) education or training of Councillors; and
- (m) matters pertaining to one of the Exceptions to Access in Division 2 of ATIPPA.

91. In the event of a dispute as to whether or not a matter should be placed on the agenda for a Special Meeting of Council or on the agenda for a Regular Meeting of Council, a majority vote of Council, taken at a Special Meeting, shall determine the appropriate agenda. If said vote results in the matter being placed on the Special Agenda, a Notice shall be published in an agenda of a Regular Meeting stating the category, as outlined in section 90, to which the matter relates.

COMMITTEE REPORTS

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

DISCLOSURE OF CONFIDENTIAL INFORMATION

93. No Councillor shall disclose or release, in oral or written form, to any Person or corporate body any Confidential Information acquired by virtue of their position, except when required by law or authorized by Council to do so.
94. No Councillor shall use Confidential Information for personal or private gain, or for the gain of any Person or corporation.
95. No Councillor shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
96. No Councillor 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.

97. A Councillor shall not have access to the personnel files of Employees, save and except for the City Manager, and access shall only be to the extent required for their role and duties as a Councillor.

PART 7
Miscellaneous

COMPLIANCE WITH OTHER ACTS

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

REPEALING PREVIOUS BY-LAWS, REGULATIONS, AND AMENDMENTS

99. 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

100. If any provision of this Councillor Code is determined to be 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

101. The provisions of the Councillor 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. This review report shall be confidential. Council may release details from the review report to the public by a majority vote of Council.

COUNCILLOR CODE TRAINING

102. All Councillors shall receive training related to this Councillor Code within 3 months of its establishment, and all new Councillors elected to Council shall receive training related to this Councillor Code within 3 months of being elected.
103. A Councillor shall not be able to assume their role in Council, or exercise any power, duty, or function as a Councillor until training under section 102 is completed.

ORIENTATION TRAINING

104. A Councillor shall receive orientation training within 1 year of the *Municipal Conduct Act* coming into force. Thereafter, any new Councillors shall receive training within 60 days of being sworn or affirmed into office.