

By-Law No.

Title

Passed by Council On

Pursuant to the authority conferred under the *City of St. John's Act*, RSNL 1990 c C-17, s.____, ## 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 "St. John's Code of Ethics 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 but not limited to St. John's Sports and Entertainment Limited, Newfoundland and Labrador Coastal Railway Museum, The V.P. Foundation Inc., St. John's Transportation Commission, or Eastern Regional Service Board.
 - (b) "**Allegation**" means a signed, written document alleging that a Person has engaged in conduct that is contrary to the provisions of the Code;
 - (c) "**Annual Disclosure Statement**" means a disclosure statement filed pursuant to section 31 of the Code;

- (d) **“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;
- (e) **“Candidate”** means a person who has been nominated to run in a St. John’s Municipal Election, By-Election or Special Election;
- (f) **“Complaint”** means any informal verbal or written complaint received by the appropriate investigative authority in any matter whatsoever;
- (g) **“Complainant”** means any person making an Allegation or 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; and,
 - (iii) matters relating to litigation, negotiations, or personnel;
- (i) **“Conflict of Interest”** means:
 - (i) the Person has a pecuniary interest directly or indirectly in the matter;

- (ii) a Relative of the Person has a pecuniary interest directly or indirectly in the matter; or
- (iii) the Person is an officer, employee or agent of an incorporated or unincorporated company, or other association of persons, that has a pecuniary interest in the matter,

and that interest is distinct from an interest held in common with other citizens;

- (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) **“Dependant”** means:
 - (i) spouse of a Member of Council;
 - (ii) any child, natural or adopted, of the Member of Council, who resides with the member of Council.
- (m) **“Employee”** means any individual, that 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;
- (n) **“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;

- (o) **“External Investigator”** means an independent, qualified third party hired to investigate an Allegation;
- (p) **“Gift Disclosure Statement”** means a disclosure statement provided to the City Solicitor pursuant to section 39 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 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) **“Member”** means a member of Council as defined in Section 5 of *the City of St. John’s Act*;
- (s) **“Perceived Conflict of Interest”** means a Person has a non-pecuniary interest, or it could reasonably appear to others that they have a Conflict of Interest, in a decision that is being discussed in their presence and that interest is distinct from an interest held in common with other citizens;
- (t) **“Person”** includes but is not limited to Members, Employees, Affiliated Entities and Volunteers;
- (u) **“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.
- (v) **“Protected Ground”** are those grounds of discrimination outlined in subsection 9(1) of the *Human Rights Act*;
- (w) **“Relative”** means one’s father, mother, spouse, sibling, child, stepchild, ward, mother-in-law, father-in-law, sister-in-law or brother-in-law;
- (x) **“Report”** means the written reports generated through the investigation process;
- (y) **“Reprisal”** means any measure taken or threatened against a Person as a result of making or being suspected of making a Complaint or Allegation, or participating in or being suspected of participating in an investigation;
- (z) **“Respondent”** means a Person that is the subject of an Allegation;
- (aa) **“Senior Management”** means the City Manager, City Clerk, City Solicitor, City Internal Auditor, all Deputy City Managers and all Directors.
- (bb) **“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.
- (cc) **“Spouse”** means a person who is married to another person or a person who cohabitates with another person for a period in excess of twelve (12) months and who is in a relationship;
- (dd) **“Subsidiary”** means a corporation that is controlled by another corporation given that:

- (i) the securities of the controlled corporation to which are attached more than 50% of the votes that may be cast to elect directors of the controlled corporation are held, other than by way of security only, by or for the benefit of the controlling corporation;
 - (ii) the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the controlled corporation; and
 - (iii) a subsidiary includes all subsidiaries of a subsidiary;
- (ee) **“Volunteer”** means any individual that provides service on a volunteer basis for the City or Affiliated Entity;
- (ff) **“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 Persons, unless otherwise stated herein, at:
- (i) City buildings, facilities, sites, offices or work environments;
 - (ii) locations visited by employees 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 Persons 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; and;
 - (g) promote high standards of professional conduct and values among Persons.

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 Persons 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*; and
 - (e) *Human Rights Act*
- (2) Notwithstanding subsection (1), where a federal or provincial statute conflicts with this Code, the federal or provincial statute shall apply.

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PART I **Ethical Conduct**

CONDUCT AND RESPECT

6. All Persons 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 AN EMPLOYEE

7. An Employee shall ensure that their actions do not place the interests of the City at risk or harm.
8. An Employee shall not make any negative public statements about the City in any medium.
9. Any opinions expressed in public by an Employee 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 Person 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 Person 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 Person shall obtain any personal gain, financial or otherwise, from the use or sale of information obtained through their position with the City.
13. An Employee 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. Persons 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.

POLITICAL ACTIVITY

15. Nothing in this section shall prohibit or discourage any Person from voting.
16. An Employee shall not engage in any Political Activity during work hours or while representing the City.
17. An Employee shall not use City resources, including but not limited to facilities, equipment or supplies while engaging in Political Activity.
18. An Employee 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, or political issue.
19. Senior Management, Legal Department Staff and Election Staff shall not engage in Political Activity during an Election.
20. Any Employee or Member seeking election to any level of government, except a Member who is seeking re-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 Human Resources policy.

21. An Employee or Member shall resign their position with the City if they are elected to any level of government, except a Member who is re-elected to Council.
22. Any mandate of the City or task that is within the scope of the Employee's duties shall not be considered Political Activity.

AVOIDING CONFLICTS OF INTEREST

23. All Employees or Volunteers shall disclose any Conflict of Interest or Perceived Conflict of Interest to their direct supervisor when involved in any decision-making process.
24. If an Employee or Volunteer has a Conflict of Interest, that Employee or Volunteer shall not participate in any discussions relating to the matter.
25. No Person shall grant preferential treatment to Relatives or to companies or organizations in which the Employee, Member, or their Relatives have a direct financial interest, and shall refrain, whenever possible, from official dealings with such persons, companies or organizations.
26. No Person shall use his or her position to promote the hiring of Relatives or friends, to discipline 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.

MEMBERS IN CONFLICT

27. (1) No Member shall vote on or speak to any matter before the

Council or any committee thereof where they have a Conflict of Interest.

- (2) A Member does not have a Conflict of Interest where:
- (a) the interest is solely a Perceived Conflict of Interest;
 - (b) 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 Member or Relative is a Member;
 - (c) the interest pertains to an Affiliated Entity; and
 - (d) the pecuniary interest is of a remote or insignificant nature including an interest that a Member is not required to disclose pursuant to subsections 32 (a-h).

OBLIGATION TO DISCLOSE

28. (1) Where a Member has a Conflict of Interest in a matter they shall, at the commencement of discussion on the matter, state verbally that they have such an interest and the nature of that interest and shall not participate in the discussion of the matter once the Conflict of Interest is stated.
- (2) Where the Member declaring a Conflict of Interest is the presiding officer they shall vacate the chair.
- (3) Where the Member declaring a Conflict of Interest does so at a Special Meeting, they shall leave that meeting while the matter on which they have a Conflict of Interest is being discussed.
29. (1) Where a Member has a Perceived Conflict of Interest in a

matter, they shall at the commencement of discussion on the matter, state verbally that they have such an interest and the nature of that interest

- (2) The Member may participate in discussion and vote on the matter after disclosure of a Perceived Conflict of Interest.
30. (1) Where a Member is in doubt as to whether they have a Conflict of Interest, they shall state the nature of the interest and Council may decide the question by majority vote.
- (2) Council's decision in subsection (1) is final.
 - (3) A Member who makes a disclosure under subsection (1) shall not vote on whether or not they are in a Conflict of Interest.

DISCLOSURE

31. (1) Prior to taking the oath of office, and within thirty (30) days of the anniversary date of taking the oath of office in each subsequent year of his or her term of office, each Member shall file with the City Clerk a statement disclosing assets and interests in accordance with section 32 called the Annual Disclosure Statement.
- (2) Where a Member fails to comply forthwith with subsection (1), the City Clerk shall forthwith notify the Member in writing of the failure to comply, and the Member shall, within 30 days of receiving the notification, file said statement referred to in subsection (1). Failure to file the Annual Disclosure Statement shall be a breach of the Code.
 - (3) Where after the filing of a statement under subsection (1) or (2) a Member or any Dependant of a Member acquires or disposes of any asset or interest of the kind mentioned in section 32, the

Member shall within 30 days of the acquisition or disposal file with the City Clerk an Amended Annual Disclosure Statement disclosing the acquisition or disposal of the said asset or interest.

32. The Member shall disclose in the Annual Disclosure Statement,
- (a) all land located in the City or within the care and control of the City in respect of which the Member or any Dependant has any estate or interest, including any leasehold estate and any mortgage, licence, or interest under a sale or option agreement;
 - (b) where the Member or any Dependant holds a beneficial interest in, or a share warrant or purchase option in respect of, 5% or more of the value of the issued capital stock of a corporation, all estates and interests in or in respect of land in the City held by that corporation or by a Subsidiary of that corporation;
 - (c) the name of every corporation, and every Subsidiary of every corporation, in which the Member or any of his or her Dependents holds a beneficial interest in 5% or more of the value of the issued capital stock, or holds a share warrant or purchase option in respect of 5% or more of the value of the issued capital stock;
 - (d) the name of every person, corporation, Subsidiary of a corporation, partnership, or organization which remunerates the Member or any Dependant for services performed as an officer, director, manager, proprietor, partner or employee;
 - (e) bonds and debentures held by the Member of Council or any of his or her Dependents, excluding bonds issued by the Government of Canada, by the government of any province of Canada, or by any municipality in Canada, and also excluding

Treasury Bills;

- (f) holdings of the Member or any of his or her Dependants in investment funds, mutual funds, investment trusts, or similar securities, excluding Retirement Savings Plans, Registered Educational Savings Plans, Home Ownership Savings Plans, accounts and term deposits held in banks, credit unions, or other financial institutions, pension plans, and insurance policies;
- (g) any interest in property in the City to which the Member or Dependant is entitled in expectancy under any trust, and any interest in property in the City over which the Member or any Dependant has a general power of appointment as executor of a will, administrator of an estate, trustee under a deed of trust or power of attorney;
- (h) the general nature of any contract or other pecuniary transaction between the City and
 - (i) the Member or any Dependant;
 - (ii) any corporation referred to in subsection (c); or,
 - (iii) any partnership in which the Member or any Dependant is a partner,but excluding
 - (iv) any such contract or other pecuniary transaction entered into before the Member was first elected to the Council;
 - (v) any such contract or other pecuniary transaction disclosed in any previous statement filed under section 31; and,

- (vi) any transaction in which the Member or any Dependant does not have a direct or indirect pecuniary interest.

33. All Annual Disclosure Statements shall be made available to the public.

GIFTS AND PERSONAL BENEFITS

34. A Person 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 37.

35. No Person shall accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of their duties.

36. A fee, advance, gift, or personal benefit provided with a Person's knowledge to a Relative or friend that is connected directly or indirectly to the performance of the Person's duties is deemed to be a gift for the purpose of the Code.

37. Notwithstanding sections 34 and 35, a Person 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, in the case of a Member running for office in accordance with the *Municipal Elections Act*;
 - (e) the gift or benefit is given to the Person 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 Person;
 - (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 Person 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 the offices of a Member or 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 Person or a third party on behalf of a Person.
38. Except for subsection 37(d), the exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers.
39. For gifts given under subsections 37(b)(e)(f)(g)(h)(i) and (j), if the value of the gift or benefit exceeds \$250.00 or if the total value received from any one source during the course of a calendar year

exceeds \$250.00, a Person shall, within thirty (30) days of receipt of the gift or reaching the annual limit, file a Gift Disclosure Statement with the City Clerk.

40. The Gift Disclosure Statement shall be a matter of public record.
41. 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 Person. In the event that the City Solicitor makes that preliminary determination, they shall call upon the Person to justify receipt of the gift or benefit.
42. After consideration of the justification given under section 41, the City Solicitor will determine if receipt of the gift was appropriate. If not appropriate, the City Solicitor may direct the Person 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.
43. A Person shall follow the direction of the City Solicitor as provided for in section 42, and failure to follow said direction shall be a breach of the Code.

PART II

Workplace Protection

PURPOSE

44. 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

45. The City prohibits discrimination as defined under the *Human Rights Act*, as amended from time to time.

HARASSMENT

46. The City prohibits harassment as defined under the *Human Rights Act*, as amended from time to time.
47. The City prohibits any behaviour which is abusive, intimidating, or threatening towards Persons, and no Persons shall engage in such behaviour.

PART III
Financing of Municipal Elections

This Part III applies to Candidates only.

EXPENDITURES

48. A Candidate for mayor shall not in any Election expend monies exceeding the total of \$10,000.00 plus \$1.00 for each voter on the voters list as of the date of the Election.
49. A Candidate for deputy mayor shall not in any Election expend monies exceeding the total of \$10,000.00 plus \$1.00 for each voter on the voters list as of the date of the Election.
50. A Candidate for councillor at large shall not in any Election expend monies exceeding the total of \$10,000.00 plus \$1.00 for each voter on the voters list as of the date of the Election.
51. A Candidate for ward councillor shall not in any Election expend monies exceeding the total of \$10,000.00 plus \$1.00 for each voter in the applicable ward on the voters list as of the date of the Election.

CONTRIBUTIONS

52. A Contribution to a Candidate shall be made only by natural persons individually, or by corporations or trade unions individually.
53. The value of a Contribution to a Candidate is:
 - (a) if the contributor is in the business of supplying those goods or services, the lowest amount charged by the contributor for an equivalent amount of the same goods or services at or about the time and in the market area in which the goods or services are contributed; or

- (b) if the contributor is not in the business of supplying those goods or services, the lowest amount charged, at or about the time the goods or services are provided, by another person who provides the same goods on a commercial retail basis or services on a commercial basis in the market area in which the goods or services are contributed.

- 54. For greater certainty, where an employee spends time working for a Candidate for which they are compensated by their employer and the employer is not a Candidate, the value of that compensation is a Contribution of the employer.

- 55. Natural persons individually may in a calendar year make a maximum Contribution of \$1,000.00 to a Candidate.

- 56. Corporations and trade unions may in a calendar year make a maximum Contribution of \$2,000.00 to a Candidate.

- 57. Only a Candidate or his or her agent may solicit, collect or accept contributions.

- 58. A Contribution to a Candidate that is made by a person in a calendar year, the total value of which does not exceed \$250.00 is not a Contribution for the purposes of this section.

- 59. A Contribution given to a Candidate in an amount exceeding \$250.00 shall be made only:
 - (a) by a cheque that has the name of the contributor printed legibly on it and that is signed by the contributor and drawn on an account in the contributor's name;

 - (b) by a money order that identifies the name of the contributor; or

- (c) in the case of a Contribution by an individual by the use of a credit card, if that credit card has the name of the individual contributor imprinted or embossed on that card,

and that Contribution shall not be accepted unless the contribution is made in accordance with this subsection.

- 60. Notwithstanding section 59, where a Contribution in an amount exceeding \$250.00 is anonymously contributed to a Candidate, that money shall not be utilized by the Candidate in the Election but shall be paid to the City and used to offset the costs of the Election.

SURPLUS

- 61. Funds contributed that are surplus to the expenditures incurred by a Candidate shall be proportionately refunded to the contributors or deposited with Council to be made available to that Candidate in the event of seeking future election, and ultimately forfeit to Council if the funds were not so refunded to the Candidate by the time that next Election has taken place.

REPORTING

- 62. All Candidates in an Election, including those not elected, shall, not more than 30 days after the Election, file with the returning officer a statement in the required form and made under oath or affirmation stating:
 - (a) the total amount of the Contributions received by them;
 - (b) each Contribution from a corporation and the contributors of those amounts; and,
 - (c) each Contribution from an individual that exceeds \$250.00 and the contributors of those amounts.

63. All Candidates in an Election, including those not elected, who did not receive any one Contribution in an amount exceeding \$250.00 shall, not more than 30 days after the Election, file with the returning officer a statement under oath or affirmation stating the total amount of the contributions received by them and that they did not receive any one Contribution in an amount that exceeded \$250.00.
64. All Candidates in an Election, including those not elected, shall file a statement under oath or affirmation within 30 days of the Election, stating:
- (a) each expenditure;
 - (b) the total amount of expenditures made by them on the campaign; and,
 - (c) confirmation that said amount did not exceed the limits set out in sections 48-51 of this Code.
65. A statement filed pursuant to sections 61-63 shall be considered to be an official record of the City, and upon request, shall be made available for inspection by members of the public.

OFFENCE AND PENALTY

66. Part V of this Code does not apply to any breach of this Part.
67. Any breach of this Part shall be governed and prosecuted pursuant to sections 99 and 100 of the *Municipal Elections Act*.

PART IV
Protection of Confidential Information

TRANSPARENCY AND INTEGRITY

68. The City is actively committed to performing functions with integrity, accountability, and transparency.
69. The City recognizes that the public has a right to open government and transparent decision making. Members shall at all times serve and be seen to serve the interests of their constituents and the City in a conscientious and diligent manner and shall approach decision-making with an open mind.

SPECIAL MEETINGS OF COUNCIL

70. 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 solicitor and client privilege or litigation privilege of the City, or information that is subject to solicitor and client privilege of a Person other than the City;
 - (d) information harmful to public security or law enforcement matters;
 - (e) information from any workplace investigation;
 - (f) information harmful to intergovernmental relations;

- (g) information harmful to the financial or economic interests of the City or an Affiliated Entity;
 - (h) information related to the City as an employer, including personnel or labour relations matters or collective bargaining or collective agreements;
 - (i) information harmful to personal privacy, including personal matters about an identifiable individual;
 - (j) information related to the acquisition, sale, lease and security of municipal property;
 - (k) litigation or potential litigation affecting the City or Affiliated Entities;
 - (l) contract negotiations of the City or Affiliated Entities;
 - (m) education or training of Members; and
 - (n) matters pertaining to one of the exceptions to disclosure in Division 2 of *ATIPPA, 2015*.
71. 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 70, to which the matter relates.

COMMITTEE REPORTS

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

DISCLOSURE OF CONFIDENTIAL INFORMATION

73. No Person 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.
74. No Person shall use Confidential Information for personal or private gain, or for the gain of any individual or corporation.
75. No Person shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
76. No Person 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.
77. A Member shall not have access to the personnel files of Employees.

TRAVEL EXPENSES

78. Travel expenditures by Persons 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.

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PART V
Reporting Breaches of the Code

This Part does not Apply to Part III.

WHISTLEBLOWER PROTECTION

79. The City is committed to the facilitation and disclosure of serious and significant matters in or relating to the City or any Person that are potentially unlawful or injurious to the public interest and, as such, shall fully protect persons who make a Complaint or Allegation.
80. No Person shall take Reprisal against any Employee or Member.

REPORTING A WRONGDOING

81. Any Person who has knowledge of Wrongdoing may make a Complaint, Allegation or pursue another remedy listed in section 90. Persons with any knowledge of a violation of the Code are encouraged to make a Complaint.

COMPLAINTS AND ALLEGATIONS

82. If there is reasonable belief that a Wrongdoing has been committed, any person whatsoever may make a Complaint to:
- (a) the City Solicitor;
 - (b) the City Internal Auditor; or
 - (c) in the case of an Employee or Volunteer, to their direct supervisor or the Director of Human Resources.
83. A person making a Complaint or Allegation 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 or Allegation anonymity cannot be guaranteed.

84. The receiver of a Complaint may in their discretion handle the Complaint through an informal process or make an Allegation under section 85 provided, however, the receiver of a Complaint shall make an Allegation if instructed to do so by the person who made the Complaint to them. In such case, the person making the Complaint may aid the receiver of the Complaint in preparing the Allegation.
85. If there is reasonable belief that a Wrongdoing has been committed, any person whatsoever may make an Allegation.
86. An Allegation shall be signed by the Complainant or their solicitor and filed with the City Solicitor. If the Allegation is being made against the City Solicitor or a member of the City Solicitor's office, the Allegation may be filed with the Director of Human Resources.
87. An Allegation made under section 85 shall include the following information, if known:
 - (a) a description of the Wrongdoing;
 - (b) the name of the Person alleged to have committed the Wrongdoing; and
 - (c) any further details or facts that would be necessary to adequately investigate the Wrongdoing.
88. (1) In the case where the Respondent is an Employee or Volunteer, the City Solicitor shall refer the Allegation to the Department of Human Resources for an initial review. Where in the opinion of the Director of Human Resources, or their designate, the Allegation has no reasonable prospect of being substantiated, the Director of Human Resources may dismiss

the Allegation and provide notice of the dismissal to the Complainant.

- (2) In cases where the Allegation is against a Member, Affiliated Entity or Senior Management, other than the City Solicitor, the City Solicitor shall conduct the initial review. Where in the opinion of the City Solicitor, or their designate, the Allegation has no reasonable prospect of being substantiated, the City Solicitor may dismiss the Allegation and provide notice of the dismissal to the Complainant.
 - (3) In cases where the Allegation is against the City Solicitor or a member of the City Solicitor's office, the Department of Human Resources shall conduct the initial review. Where in the opinion of the Director of Human Resources, or their designate, the Allegation has no reasonable prospect of being substantiated, the Director of Human Resources may dismiss the Allegation and provide notice of the dismissal to the Complainant.
 - (4) Notwithstanding subsections (1), (2) or (3), in cases where the Allegation relates to theft, fraud, or any misappropriation of funds the City Solicitor or Director of Human Resources, as the case may be, may refer the Allegation to the City's Internal Auditor. If the matter is referred to the Internal Auditor, where in the opinion of the City Internal Auditor, the Allegation has no reasonable prospect of being substantiated, the City Internal Auditor may dismiss the Allegation and provide notice of the dismissal to the Complainant.
89. Where, in the opinion of the appropriate authority outlined in section 88, as the case may be, the Allegation has a reasonable prospect of being substantiated, the Allegation shall be referred to the appropriate authority as outlined in section 94.

90. (1) A Complainant whose Allegation is dismissed by the appropriate authority, as the case may be, pursuant to section 87 may, within 30 days of receiving notice of the dismissal, appeal the dismissal to the City Manager, who may confirm, vary, or redirect the Allegation to the appropriate authority as outlined in section 93.
- (2) If the Complaint is about a Member, Affiliated Entity or Senior Management, the appeal shall be to an external adjudicator.
- (3) The Complainant will be informed of the decision of the City Manager or external adjudicator in writing.
- (4) The decision of the City Manager or external adjudicator, as the case may be, is final and binding.

ALTERNATIVE REMEDIAL PROCESS

91. Notwithstanding section 94, when it appears to the appropriate authority in section 88, that the Allegation may be resolved satisfactorily through an informal process and where the Complainant and the Respondent consent, the City Solicitor or Director of Human Resources may engage a mediator to attempt to resolve the matter. If the Allegation involves a Member or Senior Management, the City Solicitor may engage an external mediator or attempt to resolve the matter in an acceptable manner with the express written consent of the Complainant and Respondent.
92. Nothing in this Code prohibits a Complainant from pursuing the following remedies:
 - (a) 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*.

93. In the event that an Employee files a human rights complaint, any Allegation filed with respect to same will not be investigated under this Code, unless the City Solicitor directs otherwise.

INVESTIGATION OF AND RECOMMENDATIONS FOR ALLEGATIONS

94. (1) The Director of Human Resources, or their designate, shall investigate any Allegation made against an Employee or Volunteer;

(2) For any Allegation relating to theft, fraud, or any misappropriation of funds the City Internal Auditor, or their designate, may investigate the Allegation or participate in an investigation being conducted pursuant to subsections (1) and (3) at the request of the appropriate investigator.

(3) Notwithstanding subsections (1) and (2), for any Allegation made against a Member, Affiliated Entity or Senior Management, the City Solicitor shall hire an External Investigator to investigate the Allegation.

95. All Persons involved with the investigation process shall keep any information disclosed to them through the investigation process confidential.

96. The investigator shall to the fullest extent possible keep the Complainant's identity confidential.

97. All investigations under section 94 shall provide the Respondent the opportunity to give a full statement and provide any evidence they may have regarding the Complaint.

98. It is in the sole discretion of the investigator to balance the interests set-out in sections 95-97. It shall not be considered a breach of this Code if the investigator discloses the identity of the Complainant to the Respondent.
99. 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 Allegation 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 Allegation relates to a matter that results from a balanced and informed decision-making process on a public policy or operational issue;
 - (e) the Allegation does not provide adequate particulars about the Wrongdoing to properly conduct an investigation;
 - (f) the Allegation 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.

100. Upon the conclusion of an investigation under subsection 94(1) or (2), the Director of Human Resources or City Internal Auditor, as the case may be, shall present a Report of their findings and make recommendations to the City Manager. The Complainant and Respondent shall receive a copy of the Report. This Report is confidential and shall not be released to the public without written consent of the Complainant, Respondent, and City Solicitor. The Report shall be filed with the Director of Human Resources.
101. (1) Upon the conclusion of an investigation under subsection 94(3), the External Investigator shall present a Report of their findings and make recommendations to Council. The Complainant and Respondent 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, Respondent, and Council. The Report shall be tabled at a Special Meeting of Council and filed with the City Solicitor.
- (2) The City Solicitor shall make a summary report publicly available, stating the recommendation of the External Investigator. This statement shall not disclose any particulars of the investigation.

DECISION OF COUNCIL OR CITY MANAGER

102. (1) Upon a review of the findings and recommendations in the report of an investigation under section 100, the City Manager shall make a determination regarding the disposition of the Allegation.
- (2) Upon a review of the findings and recommendations in the Report of an investigation of a Member or City Manager under section 101, Council shall make a determination regarding the

disposition of the Allegation.

103. (1) Where the City Manager decides that a Respondent has not breached this Code, the City Manager shall dismiss the Allegation.
- (2) Where Council decides that a Respondent has not breached this Code, it shall dismiss the Allegation.
104. Where the City Manager decides that a Respondent has breached this Code, the City Manager may issue any combination of:
 - (a) a written reprimand to the Respondent;
 - (b) a suspension, with or without pay;
 - (c) a termination notice for the Respondent's employment; or
 - (d) any other relief as they deem appropriate for the circumstances.
105. Where Council decides that a Respondent has breached this Code, it may issue any combination of:
 - (a) a written reprimand to the Respondent issued by the Mayor, or Council if the Mayor is the Respondent;
 - (b) a fine;
 - (c) a suspension;
 - (d) an order that the Respondent vacate or be removed from office; or
 - (e) any other relief as it deems appropriate for the circumstances.

VEXATIOUS COMPLAINTS

106. No Person shall make or file a vexatious Complaint or Allegation and to do so is a breach of the Code.

JUDICIAL REVIEW

107. Any decision of Council or the City Manager is final and binding.

108. (1) Any party wishing to seek judicial review of a decision or order under sections 103 or 104 shall do so within thirty (30) days after receiving notice of that decision or order, to the Supreme Court of Newfoundland and Labrador.

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

PART VI
Miscellaneous

COMPLIANCE WITH OTHER ACTS

109. No provision in this Code shall be deemed to alter, amend, abrogate or restrict in any way any provisions of the *City of St. John's Act* pertaining to conflicts of interest.
110. 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

111. 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) *Election Finance By-Law;*
 - (e) *Whistleblower Protection By-Law;* and,
 - (f) *Freedom of Information By-Law.*

SEVERABILITY

112. Where, in relation to any employee, any provision of this Code is inconsistent with a collective bargaining agreement or employment

contract which applies to that employee, the provision of the collective agreement or the employment contract prevails.

113. 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

114. 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.