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**TO:** GENERAL COMMITTEE

**SUBJECT:** UPDATES OF THE CITY'S WORKPLACE POLICIES AND ACTIONS UNDERTAKEN RELATED TO A WORKPLACE INVESTIGATION

**PREPARED BY AND KEY CONTACT:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER, EXT. 4368

**SUBMITTED BY:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER, EXT. 4368

**CHIEF ADMINISTRATIVE OFFICER APPROVAL:** M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

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### **RECOMMENDED MOTION**

1. That Staff Report CAO001-21 concerning updates of the City's Workplace Policies and Actions Undertaken related to a Workplace Investigation be received.
2. That the amended Respect in the Workplace Policy addressing matters related to discrimination, violence, harassment or sexual harassment as defined under Ontario's *Human Rights Code* and Ontario's *Occupational Health and Safety Act*, attached as Appendix "A" to Staff Report CAO001-21 be received.
3. That the amended Council and Committee Member Code of Conduct attached as Appendix "B" to Staff Report CAO001-21, be approved.
4. That the amended Council-Staff Relations Policy attached as Appendix "C" to Staff Report CAO001-21, be approved.

### **PURPOSE & BACKGROUND**

#### Report Overview

5. The purpose of this staff report is to report to General Committee regarding the amendments made to the City's Respect in the Workplace Policy, recommend amendments to the Council and Committee Member Code of Conduct and the Council-Staff Relations Policy and advise Council of actions that have been undertaken by the Corporation resulting from the workplace investigation.

#### Background

6. Ontario's *Occupational Health and Safety Act* (OHSA) sets out the rights and duties for occupational health and safety of all parties in the workplace. The OHSA sets out roles and responsibilities of workplace parties with respect to workplace violence and workplace harassment, including developing and implementing policies and programs and providing information and instruction on these policies and programs.
7. The OHSA and the Ministry Code of Practice require an employer to protect a worker from workplace harassment.

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8. The OHSA defines workplace violence as the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker. It also includes an:
- attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker; and a
  - statement or behaviour that a worker could reasonably interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker
9. The OHSA defines workplace harassment as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. The definition of workplace harassment includes workplace sexual harassment
10. The OHSA defines workplace sexual harassment as:
- engaging in a course of vexatious comment or conduct against a worker, in a workplace because of sex, sexual orientation, gender identity or gender expression where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
  - making a sexual solicitation or advance where the person making it is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know the solicitation or advance is unwelcome.
11. Every employer in Ontario must prepare and review, at least annually, a policy on workplace violence, as required by the OHSA. Employers must also prepare and review a policy on workplace harassment at least annually, as required by the OHSA.
12. As long as all the requirements for the policies are complied with, employers may choose to combine the workplace harassment policy with a policy required by the Act for workplace violence or occupational health and safety.
13. Harassment and sexual harassment are prohibited by the Ontario *Human Rights Code*. Sections 5(2) and 7(2) and (3) of the *Human Rights Code*, state that:
- “Harassment in employment
- 5 (2) Every employee has a right to be free from harassment in the workplace on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.”
- “Harassment because of sex in workplaces
- 7 (2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee. R.S.O. 1990, c. H.19, s. 7 (2); 2012, c. 7, s. 6 (2).
- Sexual solicitation by a person in position to confer benefit, etc.
- (3) Every person has a right to be free from,

(a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

(b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.”

14. Council at its meeting of October 26, 2020 adopted the following motion:

**“20-G-174           WORKPLACE INVESTIGATION**

1. That Staff Report HRS002-20 concerning confidential personal information and advice that is subject to solicitor client privilege matters concerning a workplace investigation, be received.
2. That the Director of Human Resources and City Clerk in consultation with the Integrity Commissioner and Legal Counsel be authorized to amend the Violence in the Workplace and Workplace Human Rights Procedures to remove the language identifying roles and responsibilities for City Council and staff in the investigation process associated with complaint allegations involving Council and Committee members.
3. That the City Clerk in consultation with Integrity Commissioner and Legal Counsel review the Council and Committee Member Code of Conduct and report back to General Committee regarding amendments that may be required to provide clarification of roles and responsibilities of the Integrity Commissioner associated with complaints concerning members of Council and Committees related to workplace violence or harassment.
4. That external legal counsel be retained to provide advice to General Committee on alternative actions and related risks regarding the matter discussed in confidential Staff Report HRS002-20 and that this information on alternative action and related risks only be circulated to members not directly associated with the matter.
5. That an external party(s) with expertise in human resources and municipal law be retained to review staff's handling of the complaint as outlined in confidential Staff Report HRS002-20 with a report back to General Committee on possible changes to policy and procedures on how complaints are dealt with in the future.
6. That the City's Integrity Commissioner be consulted by City staff on the choice of the external parties in paragraphs 4 and 5 and that City Council approve the choice.
7. That City Council and City staff be encouraged to participate in the national survey on workplace harassment and violence, “Respect in the Workplace” being conducted by the Centre for Research and Education on Violence Against Women and Children at Western University.

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8. That Council condemns all forms of harassment and are ensuring by this motion that all out of date workplace policies are updated to align these policies with the role of the Integrity Commissioner.” (HRS002-20) (File: H00)
15. City Council subsequently at its meeting of October 29, 2020 retained Aird Berlis LLP to undertake the review of staff’s handling of the complaint outlined in Staff Report HRS002-20. On March 2, 2021, Aird Berlis LLP provided its report on the review of the matter.
16. On March 22, 2021, City Council adopted the following recommendation:

**“21-G-045 REVIEW OF HUMAN RESOURCES HUMAN RIGHTS POLICIES AND PROCEDURES**

1. That the confidential correspondence from Aird Berlis LLP dated March 2, 2021 concerning the Review of Human Resources Human Rights Policies and Procedures, be received.
2. That further to the direction provided in motion 20-G-174, staff be directed to address the recommendations contained in the confidential correspondence from Aird Berlis LLP dated March 2, 2021 in the updates to the Violence in the Workplace Policy and Workplace Human Rights Policy and Procedure.
3. That the Chief Administrative Officer report back to General Committee concerning all the actions that have been undertaken by The Corporation resulting from the workplace investigation and the recommendations provided in the confidential correspondence from Aird Berlis dated March 2, 2021.” (File: H00)

**ANALYSIS**

Workplace Policies and Procedures

17. Previously, the Corporation had separate policies that addressed or referenced workplace violence and harassment including a Workplace Human Rights Policy and Violence in the Workplace Policy, as well as corresponding Workplace Human Rights Procedure. In accordance with Council’s direction, a review of the City’s workplace policies dealing with harassment, violence, human rights discrimination and *Occupational Health and Safety Act* matters was undertaken.
18. As a result of the review, the various policies have been combined into a single Respect in the Workplace Policy that has been reviewed by and reflects the comments of the City’s Joint Health and Safety Committee, internal legal counsel, external legal counsel, Aird & Berlis LLP, the Director of Human Resources and the Integrity Commissioner.
19. A copy of the amended Respect in the Workplace Policy that addresses harassment, violence, human rights discrimination and *Occupational Health and Safety Act* matters is attached as Appendix “A”.
20. Combining what previously were several separate policies to provide for a single policy document provides benefits, as follows:
  - It is clearer for all parties when there are fewer documents referencing related matters;

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- It reduces the potential for misalignment that can exist when there are separate policies that may be reviewed and amended at different times; and
  - It facilitates the annual review that is required if as many relevant policies and procedures can be streamlined into a single policy document.
21. A number of other changes have been made to the Respect in the Workplace Policy to address matters related to a workplace investigation and the recommendations provided by Aird Berlis LLP. The following paragraphs provide highlights of the more significant changes:
  22. The Respect in the Workplace Policy identifies that it applies to all City employees, and individuals who interact with City employees, including but not limited to contractors and consultants, members of Council, volunteers, those appointed to Council's Committees and/or Boards, and patrons in the context of their interactions and dealings with City employees.
  23. The Policy has been amended to clearly identify that it applies to discrimination, violence, harassment (inclusive of sexual harassment) as defined under the *Human Rights Code* or OHSA.
  24. The application of the policy has been broadened to be more inclusive than the definition in OHSA as it relates to the definition of the workplace. This is intended to reflect the evolving nature of the workplace from a physical location to alternate arrangements, decisions of the courts and tribunals with respect to definitions of work-related activities and allow for activities to be addressed that could have a negative impact on a person's employment.
  25. The Respect in the Workplace Policy identifies that complaints related to Officials (persons who hold office as a Member of Council or as a member of a local board of the City or on a Council committee) can be concurrently addressed under both the Respect in the Workplace Policy and the Council and Committee Member Code of Conduct.
  26. The Respect in the Workplace Policy defers to the Integrity Commissioner with respect to any complaint made against an Official under the Policy and the Integrity Commissioner may conduct an investigation irrespective of and concurrently with any investigation performed by the Corporation.
  27. The Policy also identifies that the Corporation must refer a complaint to the Integrity Commissioner where a Respondent is a member of Council or a Council appointee to a Council Committee or local board.
  28. The Policy identifies that confidentiality will be maintained when possible. It identifies that the City reserves the right and obligation to disclose information that may be required to protect employees, to investigate the incident or complaint, to take corrective action or as otherwise required by law. The Policy clearly identifies that disclosure of information necessary for the filing and completion of the investigation process will be required.
  29. The roles and responsibilities of various parties (senior leaders, supervisors, employees, Human Resources and the Joint Health and Safety Committee) have been updated. Included in the roles and responsibilities continues to be a requirement for employees to participate in training or refresher training.
  30. The Policy requires an annual report to the Chief Administrative Officer of the number of complaints received and processed, the nature of the complaints, the resolution of the complaints and all recommendations made.

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31. The procedures for reporting and resolving workplace discrimination, violence or harassment concerns have been incorporated into the Respect in the Workplace policy for ease of reference.
  32. The timeline for submitting a complaint regarding an Official has been identified explicitly and separately from the timeline for submitting a complaint regarding a person who is not an Official within the Policy. The timeline for submitting a complaint regarding an Official is identified as no longer than six months from the incident occurring, aligning with the Council and Committee Member Code of Conduct.
  33. As the Respect in the Workplace Policy is an administrative policy, it does not require Council approval and is being presented for information purposes.

#### Council and Committee Member Code of Conduct

34. Barrie City Council adopted a City of Barrie Council and Committee Member Code of Conduct for members of Council, Local Boards and Council Committees in 2010 with the Code becoming effective as of December 2010. The Code has been amended several times to clarify specific provisions and reflect legislative changes.
35. In addition to the adoption of a Code of Conduct, an Integrity Commissioner was appointed to:
  - a) Provide information to Council/Committee members as to their obligations under the City of Barrie Council and Committee Member Code of Conduct;
  - b) Provide advice to individual members regarding specific situations as they relate to the application of the Code;
  - c) Provide advice to Council/Committee members on other policies and procedures that relate to the ethical behavior of members;
  - d) Provide information to the public regarding the Code and the obligations of members under the Code;
  - e) Conduct investigations regarding alleged breaches of the Code; and
  - f) Provide an annual report to Council on the activities of the Integrity Commissioner
36. Changes resulting from Bill 68 the *Modernizing Ontario's Municipal Legislation Act, 2017* to the *Municipal Act, 2001* passed in May 2017 resulted in a broader scope of responsibilities for the Integrity Commissioner, requirements to indemnify Integrity Commissioner and rules related to inquiries and reporting during regular elections. These provisions were incorporated into the Council and Committee Code of Conduct and the Integrity Commissioner's role in accordance with motion 19-G-024 and became effective on came into effect on March 1, 2019.
37. The City Clerk in consultation with Integrity Commissioner and Legal Counsel reviewed the Council and Committee Member Code of Conduct to address amendments that were required to provide clarification of roles and responsibilities of the Integrity Commissioner associated with complaints concerning members of Council and Committees related to workplace violence or harassment.
38. The revised version of the the Council and Committee Member Code of Conduct is attached as Appendix "B" to this staff report.

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39. A number of other changes have been made to the Council and Committee Member Code of Conduct to address Council's direction and align it with the Respect in the Workplace Policy. The following provides highlights of the more significant changes:
- Replacing references to the former Violence in the Workplace Policy and Workplace Human Rights Policy with Respect in the Workplace Policy;
  - Adding a specific definition of harassment;
  - Including additional references to the Occupational Health and Safety Act (OHSA);
  - Permitting the Integrity Commissioner the discretion to decide whether or not to report to Council concerning a complaint that has been withdrawn or resolved;
  - Identifying that complaints regarding harassment or discrimination by a Member:
    - Will be referred to the Integrity Commissioner;
    - If the Integrity Commissioner determines that a formal investigation is required, the complaint will be forwarded to the Human Resources Department to engage a qualified third-party investigator to conduct the HR investigation;
    - The Integrity Commissioner will utilize the results of the investigator's findings to make a determination of the applicability of the Code and whether to conduct a further investigation on the ethical conduct of the Member; and
    - The Integrity Commissioner may recommend interim measures be implemented while the investigation is in process; and
  - Identifying specifically that a refusal to comply with a decision of Council in respect of a recommendation of the Integrity Commissioner is a violation of the Code of Conduct and does not require a separate Code complaint.
40. The amended version of the Council and Committee Member Code of Conduct would require Council approval before it could be implemented.

#### Council-Staff Relations Policy

41. Section 270 of the Municipal Act requires a municipality to adopt and maintain a number of different policies. On November 16, 2016, *Bill 68, the Modernizing Ontario's Municipal Legislation Act* was introduced in the Ontario Legislature. The Bill received Royal Assent on May 30, 2017. One of the amendments that Bill 68 made to the *Municipal Act* was a requirement that Council pass a policy with respect to the relationship between members of Council and the officers and employees of the municipality. The requirement became effective as of March 1, 2019.
42. On February 11, 2019, Council adopted motion 19-G-025 that adopted a Council-Staff Relations Policy and authorized the City Clerk to make minor updates to the Policy to remain compliant with other City policies and legislative changes.
43. In light of the Council direction regarding related policies, staff undertook a review of the Council-Staff Relations Policy and have identified a number of revisions required to align with the revised Respect in the Workplace Policy. The proposed revised Council-Staff Relations Policy is attached as Appendix "C" to this staff report.

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44. The recommended revisions to the Council-Staff Relations Policy are summarized as follows:
- Replacing references to the former Violence in the Workplace Policy and Workplace Human Rights Policy with Respect in the Workplace Policy;
  - Specifically identifying that the policy applies to interactions at off-site job-related functions and social events as well as incidents that may occur outside of the workplace/working hours that have an impact on City employee or their working relationships, to align with the Respect in the Workplace Policy; and
  - Specifically identifying that the policy applies to discrimination, violence or harassment, aligning with the Respect in the Workplace Policy.

Actions Undertaken Resulting from the Workplace Investigation and Subsequent Recommendations

45. In addition to the completed and recommended amendments to the Respect in the Workplace Policy, Council and Committee Member Code of Conduct and Council-Staff Relations Policy, a number of other actions have been implemented and/or identified for implementation subject to the approval of the amendments. The following paragraphs summarize these actions:
46. Members of City Council and City employees received emails on November 3, 2020 and November 4, 2020 respectively, inviting them to participate in the University of Western Ontario's Respect at Work - Workplace Harassment and Violence Survey.
47. An internal working group consisting of Chief Administrative Officer, Director Human Resources, and Director of Legal Services has been established to coordinate the City's investigation response to allegations of workplace harassment, violence, human rights discrimination and *Occupational Health and Safety Act* matters. Should a complaint be reported involving a member of Council, the City's Integrity Commissioner will be requested to participate, to ensure that the any actions are aligned with the Council and Committee Code of Conduct requirements and timelines. Other members of the Corporation may be asked to participate in the working group or provide advice/guidance, depending on the nature of the complaint and any actions that are required.
48. A log is being maintained by the Director of Human Resources with respect to all complaints received and processed, the nature of the complaints, the applicable timelines for any actions, the resolution of the complaints, and all recommendations made. A requirement for status updates to be provided to the Chief Administrative Officer on a minimum of a monthly basis, has been established.
49. In addition, the results of the annual review led by the Director of Human Resources of the Respect in the Workplace Policy will be required to be presented to the Executive Management Team on a calendarized date.
50. The Respect in the Workplace Policy will be posted on the City's intranet site with other policies, after Council consideration of this report.
51. An annual training program with respect to Respect in the Workplace is being developed and will be finalized pending the review of the recommended amendments to Council and Committee Member Code of Conduct and Council-Staff Relations Policy. The training program will be provided to employees on an annual basis in addition to the traditional on-boarding process. The City's Senior Management Team and Executive Management Team will receive training on an annual basis concerning the Council and Committee Member Code of Conduct, and when any significant updates to the Code occur.

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52. The City's external website will be updated to reflect the revised Council and Committee Member Code of Conduct, if approved. The webpages will include an overview of the process and timelines for submissions of complaints.
  53. An overview of the process for filing a complaint under the Respect in the Workplace Policy or Council and Committee Member Code of Conduct has been developed and will be finalized upon approval of revised documents. The document will include information regarding the required forms to be completed and deadlines. An acknowledgement form will be provided to any complainant to ensure that they acknowledge receipt of the overview and either a hard copy or links to the applicable documents.
  54. As a result of the workplace investigation, the Corporation undertook a number of specific actions to protect the Complainant and address any workplace harassment. These actions were included in previous confidential correspondence, as the actions could identify the personal information about identifiable individuals.

#### **ENVIRONMENTAL AND CLIMATE CHANGE MATTERS**

55. There are no environmental or climate change matters directly related to the recommendation.

#### **ALTERNATIVES**

56. The following alternatives are available for consideration by General Committee:

##### **Alternative #1**

General Committee could recommend that the Council and Committee Member Code of Conduct and/or the Council-Staff Relations Policy remain unchanged.

This alternative is not recommended. The Code and the Policy require the recommended updates to reflect the revised Respect in the Workplace Policy and clarify provisions/references.

##### **Alternative #2**

General Committee could recommend that additional amendments be made to the Respect in the Workplace Policy, Council and Committee Member Code of Conduct or the Council-Staff Relations Policy.

While this option is available, it is not recommended. The amended Respect in the Workplace Policy has been prepared in consultation with and reflecting comments received from the City's Joint Health and Safety Committee, internal legal counsel, external legal counsel, Aird & Berlis LLP, the Director of Human Resources and the Integrity Commissioner. The Council and Committee Member Code of Conduct and Council-Staff Relations Policy has been prepared to align with the amended Respect in the Workplace Policy and reflects comments received from the Integrity Commissioner. The Council-Staff Relations Policy reflects comments received from the City's internal legal counsel, the Director of Human Resources and the Integrity Commissioner.



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**Alternative #3**

General Committee could recommend that additional actions be taken by the Corporation related to the workplace investigation.

This option is available.

**FINANCIAL**

57. There are no direct financial implications related to the recommendations identified in this staff report.

**LINKAGE TO 2018-2022 STRATEGIC PLAN**

58. The recommendations included in this Staff Report are not specifically related to the goals contained in 2018-2022 Strategic Plan.

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APPENDIX "A"

RESPECT IN THE WORKPLACE POLICY

**A. POLICY STATEMENT**

The City recognizes the importance of having a workplace that preserves personal dignity and encourages mutual respect, support, physical and psychological safety, and understanding amongst employees. To that end, the City is committed to promoting a vibrant, healthy, safe and compassionate work environment where everyone is treated fairly, with respect, civility, and is free from Discrimination, Violence, and Harassment.

This Policy is supported by accompanying policies and procedures. This Policy should be read in conjunction with the Employee Code of Conduct – which is about our values, principles and standards of behaviour that govern our actions. These policies, procedures, along with other reference documents are linked below.

**B. PURPOSE**

This Respect in the Workplace Policy has been developed in order to:

1. Define the behaviours and expectations that are required of all City employees in support of a physically and mentally safe and healthy work environment;
2. Adopt a proactive approach to preventing Discrimination, Violence, and Harassment;
3. Comply with the City's legislative requirements under Ontario's *Human Rights Code* and *Occupational Health and Safety Act* respecting Discrimination, Harassment and Violence.

**C. SCOPE**

1. This policy applies to:

- a. All City employees, and individuals who interact with City employees, including but not limited to contractors and consultants, members of Council, volunteers, those appointed to Council's Committees and/or Boards, and patrons in the context of their interactions and dealings with City employees.

2. This policy applies to:

- a. Discrimination, Violence or Harassment that may occur at any workplace/worksites or location where the business of the municipality is being conducted or during the course of any City business, activities and events at which City employees interact or are required to interact, including but not limited to: City premises and property; off-site premises and property; City sponsored functions, events and meals; travel venues while on City business; and any site where the employee is conducting City business or representing the City.

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- b. Discrimination, Violence, or Harassment that may occur between individuals associated with the City, including interaction outside City business, activities and events, when and where such harassment could have or has had an adverse effect on a City employee and/or the City's work environment.
  - c. Discrimination, Violence or Harassment incidents that may occur away from the workplace, on social media or outside working hours, that have an impact on a City employee and/or the City's working environment, including affecting working relationships.
  - d. Situations of domestic violence or persons with a history of violent behaviour that the employer becomes aware of that would likely expose a person to physical injury or violence in the workplace.
3. Any complaint concerning an Official who is governed by the Council and Committee Member Code of Conduct can be addressed under this Respect in the Workplace Policy, and concurrently pursuant to the Council and Committee Member Code of Conduct. A complaint concerning an Official shall be reported to the Integrity Commissioner. The Integrity Commissioner may conduct a preliminary investigation to determine whether the complaint must be referred to the police service or other appropriate authorities.

#### **D. LEGISLATIVE REQUIREMENTS**

The City shall not tolerate any form of discrimination, violence, harassment or sexual harassment as defined under Ontario's *Human Rights Code* and Ontario's *Occupational Health and Safety Act*.

##### **Specific Requirements:**

1. Under section 32.0.1(1) of the *Occupational Health and Safety Act*, the City is required to:
  1. *"(b) prepare a policy with respect to workplace harassment and violence; and*  
*(c) review the policies as often as is necessary, but at least annually.*
  2. *The policies shall be in written form and shall be posted at a conspicuous place in the workplace."*
2. Under section 5(2) of the *Human Rights Code*, the City is required to ensure that:  
*"every employee has a right to be free from harassment in the workplace on the basis of: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability."*

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## E. PRINCIPLES

### 1. Respect and Civility

All individuals have the right to work or access services in a positive, healthy, safe and respectful environment. This means that differences in perspective are acknowledged and valued, and communications and actions are civil. Respect and civility are based on showing esteem, dignity, care and compassion for others.

### 2. Violence Free Workplace

It is a shared responsibility between all individuals within the scope of this policy to create an environment where everyone is able to work without potential or actual violence or threats of Violence. All individuals should be prepared to actively work together to address Violence in the workplace.

### 3. Shared Responsibility

It is a shared responsibility among all individuals to create a culture where everyone is treated fairly, and with compassion, where differences are acknowledged and valued and where communication and action are civil.

### 4. Action

Violent behavior in the workplace is unacceptable from anyone. Violence or threats of violence from any individual will not be tolerated, condoned, or ignored and will be addressed.

Harassment and/or Discrimination in the workplace in any form, from any individual, will not be tolerated, condoned, or ignored and will be addressed.

## F. POLICY

1. The City is committed to work in collaboration with its workplace parties to create a respectful workplace free from Discrimination, Violence or Harassment. This is achieved by complying with the *Human Rights Code* and *Occupational Health and Safety Act*, and:
  - a. Establishing and communicating expectations and behaviours considered appropriate and inappropriate in the City's workplaces and in the delivery of, or access to, City services;
  - b. Proactively preventing Violence through assessing risk of violence;
  - c. Preventing Harassment and Discrimination by actively recognizing and valuing diversity and inclusion, learning conflict resolution and providing training for employees;
  - d. Training and informing employees when there is a potential, or actual, risk of violence from all possible sources including but not limited to customers, clients, supervisors, employees and domestic partners; and
  - e. Addressing incidents through corrective actions and support for employees who are victims of violence, as necessary, in addition to addressing inappropriate behavior wherever City work or business is being conducted, or when involving City employees, including early identification and taking corrective actions as necessary.
2. The City will establish and communicate an internal reporting, complaint and investigation process, including actions to facilitate an early resolution where appropriate and achievable.

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3. Supervisors, Human Resources, or any member of management will promptly address and deal with incidents or complaints and/or incidents to ensure measures, procedures and corrective actions are taken to protect employees from Discrimination, Violence or Harassment in accordance with their responsibilities. This includes referral of such matters to investigation.
  4. Confidentiality will be maintained when possible. Out of respect for workplace parties involved, and to facilitate any investigation, it is essential that the workplace parties involved in a complaint or investigation maintain confidentiality throughout the process. However, the City reserves the right and obligation to disclose information, as may need to be, to protect employees, to investigate the incident or complaint, to take corrective action, or otherwise required by law. Disclosure of information necessary for the filing and completion of the investigation process will be required. The City must refer the complaint to the Integrity Commissioner where the Respondent is a member of Council or appointed to Council's Committees and/or Boards.
  5. All individuals have the right to report or act as a witness, in good faith, incidents or complaints of Discrimination, Violence or Harassment without fear of reprisal. Where it is confirmed that an incident of substantiated Discrimination, Violence, or Harassment behaviour has occurred corrective action taken as a result will not be considered a reprisal.
  6. Action on complaints which are found to be vexatious or made in bad faith can result in a penalty against the Complainant. The severity of the penalty/corrective action will be determined based on the seriousness and impact of the complaint following an investigation.
  7. Regularly perform Workplace Violence Hazard and Risk Assessments for all workplaces/worksites as required. Results of the assessments will be provided to the Joint Health and Safety Committee representing the workplace.
  8. Provide appropriate assistance and support to any persons who are involved in incidents of violence, sexual violence or domestic violence including alleged perpetrators and victims.
  9. Nothing in the Respect in the Workplace Policy, or related procedures, is intended to prevent a Complainant from using alternate methods of resolution such as before the Ontario Human Rights Tribunal, pursuant to a Collective Agreement, referred to Police Services, or through other legal action or through the Council and Committee Member Code of Conduct complaint process.

**Nothing in this policy shall be deemed to limit the following:**

1. **Right to Refuse Work:** The rights of any worker in Part V of the *Occupational Health and Safety Act* to refuse unsafe work.
2. **Right to Respond to Any Incident:** The Respect in the Workplace Policy is both a complaint and an incident driven policy meaning that nothing in this policy shall be deemed to limit the right of the City to respond to an incident of violence, sexual violence or domestic violence, harassment or act of discrimination of which the City is aware whether or not an employee has made a complaint.

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3. **Right to Discipline:** Nothing in this policy shall be deemed to limit, or in any other way affect, the right of the City to discipline employees for insubordination or other breaches of employee conduct whether or not the action was accompanied by an act of violence, harassment, or discrimination.

## G. RESPONSIBILITIES

### Senior Leaders

Senior Leaders are responsible for the following:

1. Ensure a Discrimination, Violence, and Harassment Prevention Policy is in place and reviewed at least once, annually, and ensure a program is in place to implement this Policy; and,
2. Comply with Roles and Responsibilities for Supervisors.

### Supervisors

Supervisors are responsible for the following:

1. Lead by creating and maintaining a safe and healthy workplace free of Discrimination, Violence and Harassment while being a role model for others;
2. Understand and comply with this Policy and accompanying program;
3. Hold employees accountable for their behaviour and for following measures and procedures;
4. Ensure employee awareness of, training, and compliance with this Policy and accompanying program;
5. Conduct Risk Assessments and address hazards of Violence with corrective actions;
6. Advise employees of the risk of Violence from a person with a history of violent behaviour they may encounter where physical injury is likely;
7. Inform Employees of how to summon immediate assistance in the case of an extreme or imminent threat of Violence;
8. Advise Employees to report concerns, and incidents of Discrimination, Violence, or Harassment to their Supervisor, Human Resources or a member of management;
9. Act immediately on incidents, observations or allegations of breaches of Policy;
10. Facilitate informal resolutions and mediations, if accepted by the parties involved as required;
11. Document incidents reported by the employee, or are known or witnessed;
12. Report the incidents to Human Resources who will provide support for the intake, tracking, and processing of inquiries, complaints, and investigations;
13. Address incidents, and depending on the nature of the incident or complaint, collaborate with Human Resources to determine who will investigate further;
14. In collaboration with Human Resources, determine appropriate corrective action to address the incident;
15. Inform the employee and alleged respondent of investigation findings and appropriate action taken, as required;
16. Not disclose information provided about the incident or complaint except as necessary to protect the employee, to participate in and complete an investigation, to take corrective action, or otherwise required by law;
17. Take no reprisal against a person as a result of good faith reporting of an incident or complaint or for providing information or participating as a witness;
18. Render immediate assistance as is reasonable and notify Human Resources immediately if a critical injury or fatality occurs in their workplace as a result of incident of Violence; and,
19. Notify Human Resources as soon as possible if a Ministry of Labour Inspector attends at their Workplace as a result of incident of Violence.

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## Employees

Employees are responsible for the following:

1. Create and maintain a workplace free from Discrimination, Violence, or Harassment while being a role model for others;
2. Understand, participate in training, and comply with this Policy and accompanying program;
3. Summon immediate assistance by contacting Police and/or Security as available in the case of extreme or imminent threat of physical harm to themselves or any individual from Violence;
4. Raise any concerns about Discrimination, Violence, or Harassment to their Supervisor;
5. Report incidents of breach of Policy experienced, witnessed or having knowledge of to their Supervisor, Human Resources, or any member of management; and,
6. Cooperate fully in investigations of incidents of breach of this Policy.

## Human Resources

The Human Resources Department is responsible for the following:

1. Prepare, maintain and facilitate the review of this Policy at least once, annually, and review the program as often as necessary, in consultation with Workplace Parties, as needed;
2. Receive all incidents or complaints of Discrimination, Violence or Harassment, and support the appropriate party to address and / or investigate, if required;
3. Advise the Complainant of their right to pursue the matter through the Council and Committee Member Code of Conduct complaint process;
4. Facilitate informal resolutions, mediations and investigations, as required;
5. Provide support and guidance to Supervisors and Employees to ensure compliance with this Policy and accompanying program;
6. Participate in Risk Assessments for Violence;
7. Make available a copy of the Risk Assessment results to the Joint Health and Safety Committees;
8. Facilitate interactions with Ministry of Labour, Training and Skills Development (MLTSD) Inspectors as a result of incidents of Violence;
9. Report any fatal or critical injury as a result of Violence to the Ministry of Labour Training and Skills Development (MLTSD); and,
10. Offer Violence Prevention Program, Respect in the Workplace and/or Civility training and other requisite training programs (eg. Workplace investigations) as required by the *Occupational Health and Safety Act*.

## Joint Health and Safety Committee (JHSC)

The JHSCs are responsible for the following:

1. Assist in developing and maintaining the Respect in the Workplace Policy and program; and,
2. Provide a worker designate to investigate all deaths and critical injuries related to Violence.

## H. NO RETALIATION/REPRISAL

1. The City will not condone retaliation or reprisal of any kind by or on behalf of the City and its employees against good faith reports or complaints of violation of the Respect in the Workplace Policy.

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2. All employees must cooperate fully during an investigation of alleged wrongdoing in relation to any activity or behaviours outlined in this policy.
  3. Retaliation or reprisal against a Complainant, or someone who is a witness or is involved in such investigation, is strictly prohibited and will result in appropriate disciplinary action.
  4. Action which may be required and/or necessary to accommodate an employee during or as a result of a complaint and investigation shall not be deemed a reprisal under this policy.

#### I. REMEDIAL ACTION

1. Any employee who is found to have violated the Respect in the Workplace Policy may be subject to disciplinary action up to and including termination of employment.
2. Complaints which are found to be vexatious, malicious or made in bad faith will result in a penalty against the Complainant. The severity of the penalty will be determined based on the seriousness and impact of the vexatious complaint following an investigation which may be subject to disciplinary action up to and including termination of employment.
3. Any complaint made against an Official under this Policy shall be referred to the Integrity Commissioner. Any penalty or corrective action associated with a Discrimination, Violence or Harassment complaint investigation conducted by the City in which an Official is involved will be under the jurisdiction of the City's Integrity Commissioner and is to be addressed under the Council and Committee Member Code of Conduct, irrespective of and concurrent with any investigation performed by the City.
4. Members of the public, visitors to City facilities or individuals conducting business with the City, are expected to adhere to this Policy. In the event of inappropriate behaviour, the City will take appropriate action to ensure a Respectful Workplace. This could include barring the individual from City property, reporting the incident to the Police or other actions with vendors and suppliers.

#### J. POLICY AWARENESS

1. The Respect in the Workplace Policy will be made available to all employees by providing it at the time of employee onboarding and orientation and by making it available and accessible on the City's intranet.
2. In addition, employees will participate in training, or refresher training, from time to time as necessary.

#### K. ANNUAL REPORT

An annual report will be provided to the Chief Administrative Officer including the number of complaints received and processed, the nature of the complaints, the resolution of the complaints, and all recommendations made.

#### L. DEFINITIONS

##### General

1. **Civility:** The act of showing regard for others, being considerate in your interactions, and recognizing the inherent value of everyone in the workplace.

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2. **Official (Elected or Appointed):** A person who holds a public office as a member of Council or as a member of a local board of the City or on a Council Committee with the City whether obtained by election or by nomination of the Council or the Corporation of the City of Barrie.
  3. **Senior Leader:** Includes the Chief Administrative Officer, all members of the Executive Management Team, and Department Heads.
  4. **Joint Health and Safety Committee (JHSC):** A mandated committee under the *Occupational Health and Safety Act* that consists of labour and management representatives who meet on a regular basis to deal with workplace health and safety issues.
  5. **Ministry of Labour, Training and Skills Development (MLTSD):** A provincial body working to prevent workplace injuries and illnesses, promoting and enforcing employment standards, helping settle workplace disputes and collective agreements, supporting apprenticeships, the skilled trades, industry training and employment services in Ontario. This entity has trained Inspectors with whom the City may interact with from time to time.
  6. **Workplace party:** Includes management, JHSCs, Senior Leader, and Labour Units representing employees.
  7. **Reprisal:** Any act of retaliation, either direct or indirect. Retaliation can include creating a hostile work environment, harassment, demotion or dismissal.
  8. **Complainant:** An individual making a complaint regarding alleged breach of Policy.
  9. **Respondent:** An individual who has been alleged to have acted in a manner contrary to Policy.
  10. **Balance of Probabilities:** A standard that is used to determine if an event did or did not occur. In a case where harassment is found based on a balance of probabilities, the evidence provided has determined that the occurrence of the event was more likely to have happened than to not have happened.
  11. **Support Person:** A person, other than a legal or bargaining unit representative, that may accompany a Complainant, Respondent or witness during the investigations process. This individual should not be named in the complaint in any way.

### Discrimination and Harassment

1. **Discrimination:** Any distinction, whether intentional or not, based on prohibited grounds, which has the effect of imposing burdens, obligations or disadvantages on an individual that are not imposed on others, or which withholds or limits access to opportunities, benefits and advantages available to others.
2. **Harassment:** Engaging in a course of vexatious comment or conduct directed toward an individual or group, that is known or ought reasonably to be known to be unwelcome or unwanted. Harassment consists of comments or conduct that may or may not be linked to one of the prohibited grounds, which are insulting, intimidating, humiliating, malicious, degrading or offensive. Any unwanted or unwelcome acts of coercion and harassment or misuse of power, including demeaning, intimidating, humiliating, annoying or distressing behaviour through repeated and hostile or unwanted conduct, comments (including jokes, name calling, excessive criticism, spreading rumours, making malicious allegations),

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emails, threats, actions or gestures that affect a person's dignity or physical integrity, personal or professional performance, and that result in a harmful workplace environment or harms the employee's interaction with and within the workplace. A single severe act of harassing behaviour may be sufficient to be defined as Harassment. Properly discharged management responsibilities are not considered to be acts of harassment. Harassment includes sexual harassment as defined below. Harassment also includes creating or contributing to a poisoned work environment as defined below.

3. **Harassment - Sexual:** Engaging in a course of vexatious comment or conduct against a person in a workplace because of sex, sexuality, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome or unwanted; or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, or believed to be in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual harassment includes, but is not limited to, unwelcome sexual advances and requests for sexual favours where submitting to or rejecting this conduct is used, or could reasonably be perceived as being used, as the basis for decisions which affect the individual's employment.

4. **What is not Harassment:** The *Occupational Health and Safety Act* states: A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Workplace harassment should not be confused with legitimate, reasonable management actions that are part of the normal work function, including but not limited to:

- measures to correct performance deficiencies, such as placing someone on a performance improvement plan
- imposing discipline for workplace infractions
- requesting medical documents in support of an absence from work
- enforcement of workplace rules and policies

It also does not include normal workplace conflict that may occur between individuals or differences of opinion between co-workers which does not include violent, harassing or discriminatory behaviour.

5. **Poisoned Work Environment:** A form of harassment that may not be directed at any one individual or group but by nature is considered offensive. These forms of harassment may include slurs, profanity, derogatory or demeaning gestures, displays (pictures, graffiti, drawings, posters, pin-ups), offensive jokes, literature and behaviours considered offensive or ought to be known to be unwelcome or unwanted. The forms of harassment contribute to what may be described as a poisoned or toxic workplace environment where any individual or group of individuals feel offended, uncomfortable, unsafe or insecure.
6. **Prohibited Grounds:** Personal Harassment which is based on a prohibited ground of discrimination under the *Human Rights Code* and is dealt with under the City's Respect in the Workplace Policy and related process and procedures.

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Prohibited grounds refer to those personal attributes that are recognized as the most common targets of harassing and discriminatory actions. For offensive behaviour to be considered discrimination under the *Human Rights Code*, the focus of the action, comment or conduct must be directed toward one of these aspects of a person's background (actual or perceived), including:

- a. Age
- b. Ancestry
- c. Citizenship
- d. Colour
- e. Creed or Religion
- f. Disability
- g. Ethnic or National Origin
- h. Family Status
- i. Marital Status
- j. Place of Origin
- k. Race
- l. Sex (including pregnancy, gender identity)
- m. Gender Expression

## Violence

1. **Critical Injury:** An injury of a serious nature that: places life in jeopardy; produces unconsciousness; results in substantial loss of blood; involves the fracture of a leg or arm (but not a finger or toe); involves the amputation of a leg, arm, hand or foot (but not a finger or toe); consists of burns to a major portion of the body; or causes the loss of sight in an eye.
2. **Domestic Violence:** A pattern of abusive behaviours by one or both partners in a close personal relationship such as marriage, dating, family, friends or cohabitation. Commonly referred to as domestic abuse or "intimate partner abuse", this situation involves physical, sexual, emotional or financial abuse by current or former partners in a personal relationship.
3. **Risk Assessment:** Assessing the risk of violence, from a prevention perspective, that may arise from the nature of the workplace, the type of work, or the conditions of work.
4. **Sexual Violence:** Any sexual act or act targeting a person's actual or perceived sex, sexuality, sexual orientation, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent and includes sexual assault, stalking, indecent exposure, voyeurism and sexual exploitation.
5. **Violence:** Any incident in which a person is threatened, coerced, abused, bullied, sexually abused, sexually assaulted or sustains an injury in, at, or related to the workplace, and includes threats, coercion or abuse that is transmitted in writing or electronically. Violence includes a statement or behaviour that it is reasonable for a person to interpret as a threat to exercise physical force against another person, in a workplace, that could cause physical injury to the person.

Violence can include acts of violence that occur when a person is off duty if the interaction was related to the workplace or has the potential to compromise the safety of the workplace.

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## M. PROCEDURES FOR REPORTING AND RESOLVING WORKPLACE DISCRIMINATION, VIOLENCE OR HARASSMENT CONCERNS

All employees benefit from a prompt, efficient and effective resolution of concerns regarding a respectful workplace. The City is committed to encouraging early detection, reporting and resolution of concerns related to breaches of this Policy.

Employees who are experiencing concerns, behaviours, incidents or interactions inconsistent with the Policy should select from the options outlined below:

### 1. Informal Resolution by Employee

If an employee believes that they are being harassed or discriminated against, the first thing they can do - provided the individual feels comfortable doing so - is to deal with the matter informally and directly with the individual. An employee is not required to attempt informal resolution before initiating a formal complaint.

- a. **Tell Person to Stop.** If possible, the person should be told that the behaviour is offensive and contrary to the City's Respect in the Workplace Policy. Although this may be difficult to do, telling the person that you do not like their actions is often enough to stop the behaviour.
- b. **Written Statement.** If the behaviour continues after confronting the individual, the employee may want to provide the individual with a written statement of the situation. This statement may include specific details of the behaviours considered to be harassing, a request to stop and expectations that the individual will stop, providing details of the next steps to take if the harassment does not stop e.g., filing a complaint. The employee should ensure that a copy of this statement is kept.
- c. **Keep a Record.** The employee should make notes about the incident including when and where it happened and who was present. Clearly stating the objection in a letter or memo to the harasser as indicated above can be a good record of events.
- d. **Tell Supervisor.** In some situations, objecting may be difficult or objections may be ignored. Employees can always bring any concerns to their supervisor. In the event the supervisor is the harasser, to the harasser's supervisor. The incident and its effects should be explained to the supervisor. A plan of action should be agreed upon and a follow-up meeting scheduled.
- e. **Seek Advice.** The staff in the Human Resources Department are available for reporting, advice and assistance.
- f. **Victim Support.** Through the City's Employee and Family Assistance Program, personal supportive counselling is available for all employees experiencing harassment or discrimination in the workplace.

### 2. Avenues of Formal Complaint

Any employee has the right to file a formal complaint about situations they believe to be inappropriate conduct under this Policy and concurrently under the Council and Committee Member Code of Conduct. The City may have a legal obligation to investigate incidents, even if an employee chooses not to file and/or pursue a formal complaint.

Depending on the circumstances, an employee may choose any of the following avenues of complaint:

- a. Formal Complaint  
Employees can report incidents or complaints of workplace harassment, violence or discrimination verbally or in writing to the City.
- b. Complaint Hearing/Grievance Procedure

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While any employee may file a formal complaint, a bargaining-unit employee, who believes that their rights under a collective bargaining agreement have been violated, may choose to file a grievance in accordance with the grievance procedure set out in the collective agreement.

c. Formal Complaint to the Human Rights Tribunal of Ontario

Whether or not a complaint has been submitted to the City, any employee may make a complaint to the Human Rights Tribunal of Ontario about harassment or discrimination on any of the prohibited grounds listed in the *Human Rights Code*.

d. Formal Complaint to the Ministry of Labour, Training and Skills Development (MLTSD)

Whether or not a complaint has been submitted to the City, any employee may make a complaint to the MLTSD about harassment or violence per the *Occupational Health and Safety Act*. In addition, an employee may launch a complaint following the completion of an investigation if the Complainant is of the belief that the investigation was not thorough or the remedial action not appropriate related to the findings.

e. Formal Complaint to the Integrity Commissioner

Employees may make a complaint, against an Official, to the Integrity Commissioner. The complaint will be dealt with in accordance with the formal complaint procedure set out in the Council and Committee Member Code of Conduct.

If there is a concurrent complaint, the City shall ensure that the City's legislative, investigation and policy obligations are also met, concurrent with any action by the Integrity Commissioner.

f. Complaint to the City's Fraud and Wrongdoing Reporting

An employee may choose to lodge a complaint, either anonymously or not, by utilizing the City's Fraud and Wrongdoing tool and reporting mechanisms. This tool allows for web, phone, or email submissions. In order to properly investigate matters employees may have to disclose their identity.

g. Police Services

In certain circumstances involving a violent incident, a direct phone call to the local Police Services may be immediately required.

### 3. Right to Complain

a. An employee has the right to complain about a situation that they believe is contrary to expectations of the Respect in the Workplace Policy.

b. A complaint may be filed by the victim(s) of alleged incident(s); by a co-worker who witnessed the incident(s); or by a third party complaining on behalf of the victim(s).

c. This procedure strictly prohibits reprisal against an employee because they have complained under this procedure or has provided information regarding a complaint. An investigation into allegations of reprisal will follow the same procedure as outlined herein.

d. If after investigating any complaint, it is learned that a worker intentionally made a false complaint or provided false information regarding the complaint, disciplinary action up to and including termination may be taken against that worker.

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#### 4. Reporting a Complaint

- a. A complaint should normally be reported as soon as possible after the action or behaviour has occurred. Promptness in reporting a complaint protects the rights of both the individual(s) making the complaint ("Complainant") and the individual(s) complained against ("Respondent").

(Timelines can change and be subject to changes)

- i. A complaint involving an Official must be made no later than six (6) months of the incident(s) occurring.
  - ii. A complaint, not involving an Official, that is received greater than one (1) year from the last event, the Complainant must provide supporting rationale indicating the reason for the delay.
  - iii. The City will advise all Complainants of the applicable timelines.
- b. Employees can report incidents or complaints of discrimination, violence and harassment verbally or in writing. Complaints made against an Official must be in the prescribed written form set out in the Council and Committee Member Code Complaint Protocol. When submitting a written complaint regarding a person other than an Official, please use the Respect in the Workplace Complaint Form. When reporting verbally, the reporting contact along with the employee making the complaint, will fill out the complaint form. A written account of the incident(s) and allegations are required for the investigation process.
- c. The report of the incident should include the following information:
- i. Name of the employee who has allegedly experienced workplace incidence(s) and contact information;
  - ii. Name of the alleged harasser(s), position and contact information (if known);
  - iii. Names of the witnesses or other person(s) with relevant information to provide about the incident (if any) and contact information (if known);
  - iv. Details of what happened including date(s), frequency and location(s) of the alleged incident(s):
    - Any supporting documents the employee who complains of may have in their possession that are relevant to the complaint;
    - List any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.
- d. A complaint (not involving Senior Leaders, Officials or the Director of Human Resources) under this procedure may be submitted to the appropriate non-union management staff within the Complainant's department or to the Director of Human Resources. If the complaint is submitted to a non-union management staff within the department, it shall be referred directly to the Human Resources Department as soon as reasonably possible and no later than two (2) calendar days of receipt.
- e. The Director of Human Resources will ensure (and has the unilateral authority to ensure) that an investigation is conducted that is appropriate in the circumstances. The Director of Human Resources may choose to assign an internal investigator trained in workplace investigations to investigate the complaint, investigate the complaint directly or retain a qualified third-party investigator to do so.

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- f. Except for complaints made involving a Senior Leader or a member of Council, the Director of Human Resources will inform line management, as appropriate, of the fact that a complaint has been made and that an investigation will be conducted. However, confidentiality will be maintained (as permitted under the investigation process) with respect to the details of the investigation.

## 5. Investigation

- a. As soon as is reasonably practicable, the investigator assigned shall initiate the investigation by meeting with the Complainant(s). The Complainant has the right to be accompanied by a bargaining unit representative or support person in any meeting with the investigator. The investigator shall confirm receipt of the complaint, clarify details, and apprise the Complainant of the steps that will be taken.
- b. To the extent possible, the investigator shall ensure that the complaint is investigated promptly and fairly, in a discreet and confidential manner. The investigation will be completed within ninety (90) calendar days or less unless there are extenuating circumstances warranting a longer investigation. Parties will be advised in the event the investigation must be extended beyond the ninety (90) calendar days.
- c. The investigator has the authority, subject to applicable laws, to speak with anyone, examine any documents, including electronic format, and enter any work locations that are relevant to the complaint.

In situations referred to Police, if the Police Services request that the City not investigate the situation until after the Police investigation has been completed, the investigator will speak with and seek the approval of the Director of Human Resources prior to continuing with the City's investigation. Before deciding that an allegation appears on its face to be criminal in nature, the Integrity Commissioner can engage in redrafting the complaint in an effort to make certain that only genuine allegations of criminal conduct are referred to the appropriate police service.

- a. The Respondent(s) will be given the opportunity to respond to the allegations raised by the Complainant(s) and has the right to be accompanied by a bargaining unit representative or support person of their choice at any meeting with the investigator.
- b. An employee who is the subject of a report and who refuses to discuss potentially violent behaviour or cooperate in interventions to assess or defuse the risk of violence may, if information is uncovered through fact-finding to establish a reasonable possibility of risk, be suspended without pay and benefits until they agree to cooperate and provides proof of cooperation. Refusal to cooperate may result in dismissal if the employee has received written notice to that effect and has been given a reasonable opportunity to cooperate.
- c. The investigator will interview any relevant witnesses employed by the City who may be identified by either the Complainant or Respondent as necessary to conduct a thorough investigation. The investigator will make reasonable efforts to interview any relevant witnesses who are not employed by the City if there are any identified. Witnesses also have the right to be accompanied by a bargaining unit representative or support person of their choice at any meeting with the investigator.
- d. The investigator will periodically update the parties involved in the complaint on the status of the investigation as reasonably necessary.

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- e. Depending upon the circumstances, the Department Head, in consultation with the Director of Human Resources may determine that it is appropriate to physically and/or operationally separate the Complainant and the Respondent until the investigation has been completed. This may include placing a worker on a paid leave of absence pending the investigation findings.

## 6. Findings and Recommendations

- a. Once the investigation is complete, the investigator will submit a confidential written report to the Director of Human Resources. It is the City's goal to complete the investigation and communicate the results within ninety calendar (90) days after receipt of the complaint, where possible. The report will summarize the investigator's findings and conclusions and make necessary recommendations. Any required corrective action will be determined by the Director of Human Resources, in consultation with the appropriate line management.
- b. A conclusion about whether a specific incident(s) did or did not occur should be based upon the balance of probabilities.
- c. Interventions that may form part of a risk assessment or plan of action for a City employee who is the subject of a report or investigation may include referral to the employee's physician, use of short-term disability plan or temporary leave of absence, referral to counselling and other services through the Employee and Family Assistance Program (EFAP), fitness-for-duty evaluation and other appropriate interventions. Extreme situations may warrant suspension, obtaining appropriate court orders, and/or police involvement.
- d. Within ten (10) calendar days of the investigation report being completed, the Complainant and Respondent (if employed by the City) will be informed in writing of the results of the investigation and any corrective action that has been taken or that will be taken by the City to address the workplace harassment/discrimination.

## 7. Discipline/Counselling

- a. Depending upon the circumstances, if an employee is found to have engaged in behaviour contrary to this Policy, such conduct will be considered a form of employee misconduct. As in any other case of misconduct, corrective action may include counselling and/or discipline up to and including termination of employment.
- b. The appropriate counselling or disciplinary action imposed, if any, shall be determined by the Director of Human Resources, in consultation with the affected Department Head(s), based on the particular circumstances of the case.
- c. Disciplinary action shall follow the City's Discipline Procedure and will be in accordance with the applicable collective agreement.

## 8. Alternate Reporting and Investigation Proceedings

There are unique situations that require alternate approaches to reporting instances and investigation proceedings. These are outlined below:

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### **Violence Work Refusal**

1. Employees have the right to refuse work if violence is likely to endanger them. In this instance, the employee should immediately contact their supervisor at which point appropriate measures will be taken to protect the employee and investigate the situation.
2. In the event the employee is on the work site, the employee will be moved to a safe place as near as reasonably possible to their normal work location. In some circumstances, subject to provisions in any collective agreement as applicable, the employee may be provided with reasonable alternative work during working hours.
3. The employee must be available for the purposes of investigating the incident.
4. Subject to the circumstances, the City may contact the Police, or other emergency services as appropriate, to assist, intervene or investigate violence.
5. Details associated with the measures and procedures for summoning immediate assistance will be provided and may include:
  - a. Equipment to summon assistance such as fixed or personal alarms, locator or tracking systems, phones cell phones, etc.
  - b. Emergency telephone numbers and/or email addresses; or
  - c. Emergency procedures
6. Provided the situation is dealt with quickly and the danger to employees is removed the necessity of work refusal may be alleviated.

### **Complaints Involving a Senior Leader (Except for CAO)**

1. A complaint that is filed under this procedure against a Senior Leader shall be submitted in confidence directly to the Director of Human Resources or the Chief Administrative Officer.
2. Upon receipt of a report directly involving a Senior Leader, the Chief Administrative Officer shall engage the services of a qualified third-party investigator to investigate the complaint, in consultation with the Director of Human Resources.
3. The investigator shall conduct the investigation in accordance with the provisions of this procedure and all applicable legislation. Once the investigation is complete, the investigator will submit a confidential written report to the Director of Human Resources. The report will summarize the investigator's findings and conclusions and make necessary recommendations, excluding any disciplinary measure. Any required corrective action will be determined by the Chief Administrative Officer, in consultation with the Director of Human Resources.
4. Should the complaint involve the Director of Human Resources in any way, the complaint and investigation process will be limited to the Chief Administrative Officer and the third-party investigator.

### **Complaints Involving the Chief Administrative Officer**

1. A complaint that is filed under this procedure against the Chief Administrative Officer shall be submitted in confidence directly to the Director of Human Resources. Upon receipt of a complaint

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against the Chief Administrative Officer, the Director of Human Resources shall promptly inform the Mayor.

2. The investigation of a complaint filed under this procedure against the Chief Administrative Officer shall be contracted to a qualified third-party investigator as recommended by the Director of Human Resources.
3. The assigned third-party investigator shall carry out the investigation in accordance with the provisions of this procedure and all applicable legislation.
4. The Director of Human Resources shall provide a summary of the findings on a confidential basis, to all members of Council or, if so requested by Council, a local board or a committee of Council. Any discussions regarding the complaint, investigation and report will be held in camera. The members of Council (or local board or committee of Council, as appropriate) may determine and subsequently approve any recommended corrective action, in consultation with the Director of Human Resources.

#### **Complaints Involving an Official**

1. A complaint involving an Official shall be filed with the Integrity Commissioner in accordance with the formal complaint procedure set out in the Council and Committee Member Code of Conduct.
2. The Integrity Commissioner will determine whether a complaint involving an Official should be dealt with solely under the Council and Committee Member Code of Conduct or also concurrently processed under the City's Policies. Regardless of this determination, the City will retain the discretion to continue its own investigation, as applicable, in respect of the City's Policies and legal obligations to the workplace.
3. A complaint involving an Official must be filed or reported within six (6) months of the incident(s) occurring (subject to applicable legislation).
4. The Integrity Commissioner shall review and investigate the complaint in accordance with the formal complaint procedure set out in the Council and Committee Member Code of Conduct. The Integrity Commissioner may engage the services of a qualified third-party investigator to investigate the complaint.
5. The Integrity Commissioner will provide a report if a contravention is found and provide recommendations to Council with respect to penalties and/or remedial actions.

#### **9. Confidentiality**

1. All incidents, complaints, and/or witness statements regarding an investigation of an allegation of Discrimination, Violence or Harassment will be kept confidential except to the extent necessary to protect employees, to complete the investigation of the incident, to take corrective action or otherwise as required by law.
2. While the investigation is on-going, the Complainant(s), the Respondent(s) and any witnesses will be directed to not discuss the incident or complaint or the investigation with each other or other workers or witnesses. The investigator may discuss the investigation and disclose the incident or

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complaint-related information only as necessary to conduct the investigation. A complaint concerning an Official shall be reported to the Integrity Commissioner.

3. All records of the investigation will be kept confidential. The investigation documents, including the report should not be disclosed unless necessary to investigate an incident or complaint of workplace harassment or violence, to take corrective action or otherwise as required by law.
4. The investigation documents will be sealed and stored in a workplace investigations file in the Human Resources Department.

## **10. Employee Representation**

If the Complainant(s) and Respondent(s) or any witnesses are members of a bargaining unit, they shall be entitled to bargaining unit representation throughout the formal complaint process if they so choose. Alternatively, and in the case of a non-union employee, the Complainant(s), Respondent(s) or witnesses may decide to have a support person accompany them throughout the process instead of a bargaining unit representative. The investigator shall advise these individuals of this entitlement.

## **11. Trauma Support**

City staff who have witnessed or experienced a traumatic event may need special support. These special needs will be acknowledged and accommodated by the City. The City will encourage these employees to use the Employee and Family Assistance Program (EFAP) or other services as appropriate. The Director of Human Resources, or designate, will advise affected staff of their support options and will coordinate any special assistance that may be required.

## **12. Measures and Procedures to Evaluate and Control Risk**

The City will use the appropriate assessments, tools and trained personnel to conduct risk assessments for each physical location and work activities within the City that involve City of Barrie employees covered by this procedure. All assessments will be maintained and stored by Human Resources and updated as required.

## **13. Measures Related to Domestic Violence**

If the City becomes aware, or has reason to believe, that an employee is experiencing domestic violence that would likely expose them or other employees, to physical injury that may occur in the workplace, the City will take every precaution reasonable in the circumstances to provide protection to the worker and others in the workplace. This may include one or several of the following:

- Creating a safety plan;
- Contacting the police;
- Establishing a schedule for regular video calls;
- Establishing enhanced security measures (e.g. implementing a panic button, setting up a “dummy” email address, introduction of a code word(s), and other similar door and access security measures);

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- Screening telephone calls and blocking certain email addresses;
  - Setting up preferred parking arrangements or providing escorts to vehicle;
  - Adjusting working hours and location so that they are not predictable;
  - Facilitating access to counseling through the Employee Assistance Program or other community programs.

#### **14. Persons with a History of Violence**

If the City becomes aware, or has reason to believe, that a person with a history of violent behaviour is likely to expose an employee to violence, the City will ensure every precaution reasonable in the circumstances will be implemented to protect the employee at the workplace, by providing information, including personal information, related to a risk of violence from a person with a history of violent behaviour.

This may include one or several of the following:

- Creating a safety plan;
- Contacting the police;
- Establishing a schedule for regular video calls;
- Establishing enhanced security measures (e.g. implementing a panic button, setting up a “dummy” email address for safe reporting, introduction of a code word(s), and other similar door and access security measures);
- Screening telephone calls and blocking certain email addresses;
- Setting up preferred parking arrangements or providing escorts to your vehicle;
- Adjusting your working hours and location so that they are not predictable;
- Facilitating your access to counseling through the Employee Assistance Program or other community programs.

#### **N. REFERENCES AND RELATED DOCUMENTS**

This Policy should be read and applied in conjunction with the following references and related documents as updated from time to time. Please note that some of the following documents may not be publicly available.

##### **External References**

- *Occupational Health and Safety Act*
- *Human Rights Code*
- *Municipal Act, 2001*

##### **Internal References**



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- Employee Code of Conduct
  - Council and Committee Member Code of Conduct
  - Council-Staff Relations Policy
  - Code of Conduct Complaint Procedure (Council)
  - Code of Conduct Formal Complaint Form (Council)
  - Health and Safety Policy
  - Social Media Policy
  - Joint Health and Safety Committee Terms of Reference
  - Violent Incident Procedure – Management Action
  - Violent Incident Procedure – Employees Action
  - Fraud and Wrongdoing Procedure
  - Crisis Incident Manual
  - Violence Risk Assessments
  - Discipline Procedure
  - Workplace Personal Safety Plan
  - Respect in the Workplace Complaint Form
  - Handling Unreasonable Customer Behaviour Policy and Procedure

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## APPENDIX “B”

### PROPOSED AMENDED COUNCIL AND COMMITTEE MEMBER CODE OF CONDUCT

#### City of Barrie Council and Committee Member Code of Conduct Policy Statement:

The purpose and intent of the Council Code of Conduct is to establish standards of conduct for Members of Council, Local Boards and Committee Members in the individual conduct of their official duties.

The Code represents general standards. The Code does not replace Council Member's roles, responsibilities, actions and behaviours required by various statutes, by-laws and policies.

#### Statements of Principle:

A written Code of Conduct helps to ensure that the members of Council share a common basis of acceptable conduct. These standards are designed to supplement the legislative parameters within which the members must operate. These standards are intended to enhance public confidence that the City of Barrie's elected and appointed officials operate from a basis of integrity, justice and courtesy.

#### Specific Policy Requirements:

##### Section 1: Overview

- 1.1 The City of Barrie's Code of Conduct is a general standard that augments the provincial laws and municipal policies and by-laws that govern the members' conduct.

##### Section 2: Procedures and Statutes Regulating Conduct

- 2.1 This Code of Conduct operates along with and as a supplement to the existing statutes and City policies governing the conduct of members, including but not limited to the following:
  - (a) *Municipal Act*, 2001, S.O. 2001, c. 25;
  - (b) *Municipal Conflict of Interest Act*, R.S.O 1990, c.M. 50;
  - (c) *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M. 56;
  - (d) *Municipal Elections Act*, 1996, S.O. 1996, c. 32;
  - (e) *The Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace)* 2009; and
  - (f) *Human Rights Code*.
- 2.2 The City of Barrie Procedural By-law 2013-072, as amended.
- 2.3 The Criminal Code of Canada also governs the conduct of members.
- 2.4 Respect in the Workplace and Council-Staff Relations Policies and associated procedures and programs

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### **Section 3: Application**

- 3.1 This Code of Conduct and the references within it, shall apply to all members of Barrie City Council and members of Local Boards and Council Committees including those citizens and/or staff appointed by City Council.

### **Section 4: Definitions**

- 4.1 For the purpose of this Code of Conduct,
- (a) “child” means a child born within or outside a marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family or as defined under the current *Municipal Conflict of Interest Act* as amended from time to time.
  - (b) “City” means The Corporation of the City of Barrie.
  - (c) “City property” means items, services or resources which are the property of the City including but not limited to: materials, equipment, vehicles, facilities, technology, City-developed computer programs of technological innovations, databases, intellectual property, City-owned images, logos, coat of arms, and supplies.
  - (d) “Clerk” means the City Clerk of The Corporation of the City of Barrie.
  - (e) “Code” means this Code of Conduct as it applies to members of Council, Local Boards and/or City Council Committees.
  - (f) “committee member” means citizens and/or staff appointed by City Council to Committees of Council.
  - (g) “complaint” means an alleged contravention of this Code
  - (h) “confidential information” includes information in the possession of the City that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is subject to solicitor-client privilege and information that is deemed to be personal information. Under MFIPPA, “personal information” means recorded information about an identifiable individual, including:
    - (i) Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
    - (ii) Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
    - (iii) Any identifying number, symbol or other particular assigned to the individual;
    - (iv) The address, telephone number, fingerprints or blood type of the individual;

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- (v) The personal opinions or views of the individual except if they relate to another individual;
  - (vi) Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
  - (vii) The views or opinions of another individual about the individual; and
  - (viii) The individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

It also means any information that is of a personal nature to City employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Corporation or could give the person to whom it is disclosed an advantage. Confidential information includes, but is not limited to the following information:

- (i) Disclosed or discussed at a Closed Session meeting of Council;
- (ii) That is circulated to Members of Council and marked "Confidential"; and
- (iii) That is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information:
  - 1. Personal matters about an identifiable individual(s);
  - 2. Information about suppliers provided for evaluation which might be useful to other suppliers;
  - 3. Matters relating to legal affairs of the City; sources of complaints where the identity of the complainant is given in confidence; items under negotiations; and
  - 4. Matters identified as solicitor-client privileged.

- (i) "Corporation" means Corporation of the City of Barrie.
- (j) "Council" means the Council of the City of Barrie.
- (k) "Council Committee" means an Advisory, Reference, Standing or Special Committee of City Council, established in the Procedural By-law 90-01 as amended from time to time.
- (l) "*employee*" means a person employed by The Corporation of the City of Barrie or Local Board, including those employed on a personal services contract, and volunteers, but does not include Members.
- (m) "demonstrably acting in the public interest" means acting to advance a concern, issue, or complaint that involves an issue of importance to some or all citizens of Barrie, as opposed to a private interest, which is mainly of interest to the affected party(ies).

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- (n) “elector” means a person who is entitled to vote in a municipal election held in the City of Barrie at the time of making a complaint.
  - (o) “frivolous” means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense.
  - (p) “gifts and benefits” means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment.
  - (q) “good faith” means in accordance with standards of honesty, trust and sincerity.
  - (r) “harassment” means harassing behaviour and conduct as indicated by the City of Barrie Respect in the Workplace Policy and the Ontario *Human Rights Code*.
  - (s) “hospitality” means instances where there is entertainment of or by outside parties for the furtherance of municipal business.
  - (t) “in-law” means a relative by marriage.
  - (u) “*Integrity Commissioner*” means the Integrity Commissioner appointed by Council pursuant to the *Municipal Act, 2001*.
  - (v) “Local Board” means a local board as defined in section 223.1 of the *Municipal Act, 2001*.
  - (w) “member” means a member of Council, a Local Board or Committee member.
  - (x) “member of Council” means the Mayor or Ward Councillor of The Corporation of the City of Barrie.
  - (y) “office” means the authority and duties attached to the position of being an elected member of Council.
  - (z) “official duties” means the public duties of a Member and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the City or Local Board's jurisdiction, and which are done for the purpose of providing good government with respect to those matters.
  - (aa) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child or as defined under the current *Municipal Conflict of Interest Act* as amended from time to time.
  - (bb) “pecuniary interests” are interests that have a direct or indirect financial impact or as defined under the current *Municipal Conflict of Interest Act* as amended from time to time they include:
    - (i) Any matter in which the member has a financial interest;
    - (ii) Any matter in which the member is a shareholder, director or senior officer of or holds a controlling interest in a corporation that does or does not offer its securities to the public, and such corporation has a financial interest;

- (iii) Any matter in which the member is a partner of a person or is in the employment of a person that has a financial interest; and
- (iv) Any matter in which a parent, spouse, same sex partner or any child of the member has a financial interest, if known to the member.
- (cc) “personal benefit” means forms of advantage other than financial such as seeking an appointment, promotion or transfer within the Corporation on behalf of a family member and includes the private interests of a Member.
- (dd) “private interest” means all of the activities of a Member not included in the term defined as “Official Duties”.
- (ee) “sibling” means one of two or more children having one or both parents in common; a brother or sister.
- (ff) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage or as defined in the current *Municipal Conflict of Interest Act* as defined from time to time.
- (gg) “vexatious” means without reasonable or probable cause or excuse.

#### **Section 5: General Standards Of Conduct**

- 5.1 Members are responsible for making honest statements. No member shall make a statement when they know that statement is false. No member shall make a statement with the intent to mislead Council or members of the public.
- 5.2 Members shall at all times serve and be seen to serve their constituents in a conscientious and diligent manner.
- 5.3 Members will conduct their dealings with each other in ways that maintain public confidence in the office to which they have been elected, are open and honest, focus on issues rather than personalities, avoid aggressive, offensive or abusive conduct.
- 5.4 Members should be committed to performing their functions with integrity, accountability and transparency.
- 5.5 Members shall perform official duties and arrange their public affairs in a temperate and abstemious manner that promotes public confidence and respect and will bear close public scrutiny.
- 5.6 It shall be the duty of all Members to abide by all applicable legislation, policies and procedures pertaining to their position as a Member.
- 5.7 Members shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of Official Duties to the City or Local Board.
- 5.8 Every Member in exercising his or her powers and in discharging his or her Official Duties shall, in accordance with the *Municipal Act, 2001*, and *Municipal Conflict of Interest Act*.
  - (a) Seek to advance the common good of the City of Barrie;

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- (b) Truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability;
  - (c) Exercise care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
  - (d) Exercise his or her powers only for the purpose for which they were intended; and
  - (e) Competently exercise his or her office by educating themselves either formally or informally, in matters pertaining to their official duties.

#### Responsibilities of Council, the Mayor and Councillors

- 5.9 Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for committees. Authority to act on behalf of Council, including through a committee, can only be delegated by Council or through law.
- 5.10 Council is responsible for and dedicated to providing good and effective government for the public in an open, accountable and transparent manner.
- 5.11 A fiduciary relationship exists between the Council and inhabitants of the municipality.
- 5.12 Members of Council:
  - (a) May not impugn or malign a debate or decision or otherwise erode the authority of Council;
  - (b) When appointed to committees and other bodies as part of their duties must make every effort to participate diligently in these bodies with good faith and care;
  - (c) Must uphold the law and conduct themselves with the highest degree of ethical behaviour and integrity;
  - (d) Must avoid conflict of interest;
  - (e) Must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect;
  - (f) May not make statements known to be false or make a statement with the intent to mislead Council or the public;
  - (g) Are responsible in this Code for the actions of their staff, volunteers, agents or other representatives working on their behalf.

#### Committees, Local Boards and Members of Committees/Local Boards.

- 5.13 Members of the public appointed to committees or Local Boards are appointed at the pleasure of Council. They do not hold office nor do they represent a constituency within the community nor do they represent Council, or the committee or the Local Board unless mandated to do so. Members of the public appointed to committees and Local Boards must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.

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- 5.14 Committees and Local Boards operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.
- 5.15 No Committee member/Local Board member may act beyond the mandate of the committee/local board granted by Council. They must not undertake site visits, direct discussions with residents, informal meetings or communications including emails except:
- (a) As granted the right to do so by Council;
  - (b) Pursuant to the duties of a Member of Council; or
  - (c) Otherwise if required by law.

#### **Section 6: Respect For Decision Making Process**

- 6.1 Members shall accurately and adequately communicate the decisions of Council and Local Boards such that respect for the decision and decision-making process is fostered.
- 6.2 Members shall not attempt directly or indirectly, to influence the decision-making process, as it relates to the award of contracts or settlement of claims. This includes but is not limited to direct or indirect personal contact or interaction with the parties administering or directly involved in such processes.

#### **Section 7: Avoidance Of Waste**

- 7.1 Members shall avoid waste, abuse and extravagance in the provision or use of public resources or any other City Property.

#### **Section 8: Gifts And Benefits**

- 8.1 No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.
- 8.2 For these purposes, a fee or advance, gift or benefit provided with the member's knowledge to a member's spouse, child, parent, brother, sister, father-in-law, mother-in-law, sister-in-law and brother-in-law or to a member's staff that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member.
- 8.3 The following are recognized as exceptions:
- (a) Compensation or benefit authorized by Council;
  - (b) Such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
  - (c) A political contribution otherwise reported by law;
  - (d) Services provided without compensation by persons volunteering their time;
  - (e) A suitable memento of a function honouring the member;

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- (f) 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;
  - (g) Food and beverages consumed at banquets, receptions or similar events, if:
    - (i) Attendance serves a legitimate business purpose;
    - (ii) The Person extending the invitation or a representation of the organization is in attendance; and
    - (iii) The value is reasonable and the invitations infrequent.
  - (h) Communication to the offices of a member, including unpaid subscriptions to newspapers and periodicals.

8.4 Except in the case of category (a) or (f), a member may not accept a gift or benefit worth in excess of \$250 or gifts and benefits from one source during a calendar year worth in excess of \$250.

#### **Section 9: Disclosure Statement**

- 9.1 In the case of categories 8.3(b) (e) (f) (g) and (h), if the value of the gift or benefit exceeds \$150, or if the total value received from any one source during the course of a calendar year exceeds \$150, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner. The disclosure statement must indicate:
- (a) The nature of the gift or benefit;
  - (b) Its source and date of receipt;
  - (c) The circumstances under which it was given or received;
  - (d) Its estimated value;
  - (e) What the recipient intends to do with any gift; and
  - (f) Whether any gift will at any point be left with the City.
- 9.2 A disclosure statement must be filed even if the gift or benefit is immediately returned. Any disclosure statement will be a matter of public record.
- 9.3 On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in the Integrity Commissioner's opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes the preliminary determination that the receipt of the gift may create a conflict, he or she shall call upon the member of council to justify the receipt of the gift or benefit.
- 9.4 Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, "request" or forfeit the gift or remit the value of any gift or benefit already consumed to the City.

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### **Section 10: Confidential Information**

- 10.1 No member shall disclose or release by any means to any member of the public, or in any way divulge any confidential information, including personal information or any aspect of deliberations acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council resolution to do so.
- 10.2 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council, Local Board resolution (if so empowered), or required by law to do so.
- 10.3 Nor shall members use confidential information including information that they have knowledge of by virtue of their position that is not in the public domain, including e-mails and correspondence from other Members, or third parties, for personal or private gain, or for the gain of relatives or any person or corporation or cause detriment to the City, Council, Local Board, or others. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
- 10.4 Confidential information includes information in the possession of the City that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of 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. Members shall not disclose, use or release information in contravention of applicable privacy law.
- 10.5 The *Municipal Act, 2001*, permits information that concerns personal matters about an identifiable individual; labour relations or employee negotiations; litigation; property acquisitions/dispositions; the security of the property of the City or a local board; advice subject to solicitor-client privilege; information explicitly supplied in confidence to the municipality by Canada, a province or territory or a Crown agency; trade secrets or scientific, technical, commercial, financial or labour relations information supplied in confidence to the municipality or belonging to the municipality/local board; positions, plans or instructions to be applied to any negotiations carried on by the municipality/local board; and matters authorized in other legislation, to remain confidential. For the purposes of the Code of Conduct, "confidential information" also includes this type of information.
- 10.6 Under the City of Barrie Procedural By-law as amended from time to time a matter that has been discussed at an in-camera meeting remains confidential. Members have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members shall not either directly or indirectly, release, make public or in any way divulge the content of any such matter, or the substance of deliberations, of the in-camera meeting including memorandums and staff reports that are distributed for consideration during the in-camera meeting to anyone, unless specifically authorized by City Council resolution or required by law.
- 10.7 Examples of the types of information that a member of Council must keep confidential include but are not limited to the following:
- (a) Items under litigation, negotiation, or personnel matters;
  - (b) Information that infringes on the rights of others (e.g., sources of complaints);

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- (c) Price schedules in contract tender or Request For Proposal submissions if so specified;
  - (d) Information deemed to be “personal information” under the *Municipal Conflict of Interest Act*; and
  - (e) Statistical data required by law not to be released (e.g. certain census or assessment data).
- 10.8 Members of Council shall not access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by Council policy.
- 10.9 Members are only entitled to information in the possession of the City that is relevant to matters before the Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen. As one example, no member should have access to documents or receive any information related to a particular procurement process while the process is ongoing.

#### **Section 11: Use Of City Property, Services And Other Resources**

- 11.1 No member of Council shall use, or permit the use of City Property, including land, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, computers, networks, websites, Corporate transportation) for activities other than the business of the Corporation. Nor should any member obtain personal benefit or financial gain from the use or sale of City Property, including City-developed intellectual property (for example, inventions, creative writings, computer programs and drawings), technical innovations, City owned images, logos, coat of arms, or other items capable of being patented, since all such property remains exclusively that of the City.
- 11.2 Members shall conduct themselves in accordance with the provisions of the City of Barrie Technology Use Policy. The City of Barrie licenses the use of computer software from a variety of vendors. The City of Barrie does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable licence. This policy applies to the use of blackberries, personal computers, fax machines, printers, etc.
- 11.3 Members shall conduct themselves in accordance with the City of Barrie’s Use of Corporate Resources for Election Purposes Policy

#### **Section 12: Election Campaign Work**

- 12.1 Members are required to follow the provisions of the *Municipal Elections Act, 1996* and Council's Policy with respect to the Use of Corporate Resources for Election Purposes.
- 12.2 No member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and Councillor websites linked through the City’s website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on City property. No member shall use the services of persons during hours in which those persons receive any compensation from the City.



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**Section 13: Municipal Conflict Of Interest Act**

- 13.1 Members shall conduct themselves in accordance with the Municipal Conflict of Interest Act as amended from time to time.

**Section 14: Improper Use Of Influence**

- 14.1 No Member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.
- 14.2 Examples of prohibited conduct are the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates (business or otherwise). This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.
- 14.3 For the purposes of this provision "private advantage" does not include a matter:
- (a) That is of general application;
  - (b) That affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
  - (c) That concerns the remuneration or benefits of a member of Council as authorized by Council.

**Section 15: Business Relations**

- 15.1 No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the City except in compliance with the terms of the *Municipal Conflict of Interest Act* as amended from time to time.
- 15.2 A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

**Section 16: Expenses**

- 16.1 Members shall comply with the provisions of the Council Reimbursement of Expenses Policy as amended from time to time.

**Section 17: Conduct Respecting Current And Prospective Employment**

- 17.1 No member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the City.

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**Section 18: Conduct At Meetings Of Council**

- 18.1 Members shall conduct themselves with decorum at Council and Committee meetings in accordance with the provisions of the City of Barrie's Procedural By-law 90-01 as amended from time to time.

**Section 19: Conduct Respecting Staff**

- 19.1 Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategic priorities through the work of staff.
- 19.2 Employees have an obligation to recognize that members of Council have been duly elected to serve the residents of Barrie and respect the role of Council in directing the actions of the City.
- 19.3 Employees serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Members have no individual capacity to direct members of staff to carry out particular functions.
- 19.4 Inquiries of staff from Members should be directed to the Chief Administrative Officer or the appropriate senior staff as directed by the Chief Administrative Officer.
- 19.5 Only Council as a whole and no single member including the Mayor has the authority to direct staff, approve budget, policy, committee processes and other such matters, unless specifically authorized by Council.
- 19.6 Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the City.
- 19.7 Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. Similarly, Employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed for their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence Employees in the performance of such duties and obligations.
- 19.8 Certain Employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.
- 19.9 No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.
- 19.10 In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Code of Conduct and include dealing with constituents and the general public, participating as

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Committee members, participating as Chairs of Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council.

**Section 20: Discreditable Conduct (Interpersonal Behaviours)**

- 20.1 All members of Council have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All members of Council shall ensure that their work environment is free from discrimination and of personal and sexual harassment.
- 20.2 The Ontario *Human Rights Code* and the *Occupational Health and Safety Act* apply, as do the City of Barrie's *Respect in the Workplace Policy*, *Code of Conduct for Employees* and associated procedures and programs addressing a Harassment-free and Discrimination-free Workplace adopted by Council.
- 20.3 Members shall abide by the provisions of the Human Rights Code, as amended, and, in doing so, shall treat every person, including other Members, employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 20.4 In accordance with the Human Rights Code, as amended, Members shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, or disability.
- 20.5 In accordance with the Human Rights Code and the *Occupational Health and Safety Act*, as amended, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 20.6 Without limiting the generality of the foregoing, Members shall not:
- (a) Make inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
  - (b) Display materials or transmit communications that are inappropriate, offensive, insulting or derogatory;
  - (c) Make threats or engage in any abusive activity or course of conduct towards others;
  - (d) Vandalize the personal property of others;
  - (e) Commit assault of any kind, including making unwanted physical contact, including touching, patting, or pinching; or
  - (f) Refuse to converse or interact with anyone based on any ground listed in the Human Rights Code, as amended.
- 20.7 Harassment or discrimination which occurs in the course of, or is related to, the performance of Official Duties by Members is subject to this Code. If an Employee, a member of the public or any individual brings forward a harassment or discrimination complaint against a Member, the complaint

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will be referred to the Integrity Commissioner and the complaint procedure under this Code will apply. Upon receipt of a complaint that relates to harassment or discrimination, if the Integrity Commissioner determines that a formal investigation is required, the Integrity Commissioner may forward the information subject of the complaint to Human Resources who will engage the services of a qualified third-party investigator to conduct the HR investigation. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall utilize the investigator's findings to make a determination under the application of the Code and decide whether to conduct a further investigation on the ethical conduct of the Member subject of the complaint. Depending upon the circumstances, the Integrity Commissioner may recommend that appropriate interim measures be implemented while the investigation is in progress. Such interim measures may include physically and/or operationally separating the complainant and the respondent until the investigation has been completed.

### **Section 21: Failure To Adhere To Council Policies And Procedures**

- 21.1 A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by City Council.
- 21.2 This provision does not prevent a Member from requesting that Council grant an exemption from a policy.

### **Section 22: Reprisals And Obstruction**

- 22.1 Members of Council shall respect the integrity of the Code of Conduct. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of his or her responsibilities, as, for example, providing inaccurate or misleading information to the Integrity Commissioner, refusing to answer inquiries or by the destruction of (records) documents or the erasing of electronic communications.
- 22.2 A refusal to comply with a decision of Council in respect of a recommendation of the Integrity Commissioner is a violation of the Code of Conduct.

### **Section 23: Acting On Advice Of The Integrity Commissioner**

- 23.1 Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner, and the information or facts have not changed in the interim.

### **Section 24: Compliance With The Code Of Conduct**

- 24.1 Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code of Canada* or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.
- 24.2 In addition to any other consequence imposed by law, Members found to have breached this Code may be subject to discipline, including return of a gift or benefit, removal from a Local Board or committee, loss of Chairmanship, removal from a Local Board or committee, censure, a reprimand

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or, where applicable, suspension of remuneration paid for his or her services as a Member, for a period of up to ninety (90) days.

- 24.3 The Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code.
- 24.4 Any individual, including members of the public, City employees, and members of Council, who has reasonable grounds to believe that a Member has breached a provision of the Code, may proceed with a complaint.
- 24.5 An organization, Employee, Member or member of the public having reasonable grounds to believe that a Member has breached this Code, may proceed with a complaint. Complaints must be submitted no more than six months after the alleged violation occurring. No action will be taken on a complaint received beyond these deadlines.
- 24.6 A complainant does not have to pursue the informal complaint process set out in section 25.1 prior to proceeding with the formal complaint process set out in section 25.2.

## **Section 25: Procedure – Complaints**

### Informal Complaints

- 25.1 Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code may address their concerns in the following manner:
- (a) Advise the member that their behaviour or activity contravenes the Code;
  - (b) Encourage the member to stop the prohibited behaviour or activity;
  - (c) If applicable, confirm to the member your satisfaction or dissatisfaction with his or her response to the concern identified;
  - (d) Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.
  - (e) If not satisfied with the response received through the informal process, an individual may proceed with a formal complaint through the Integrity Commissioner as outlined in section 25.2.

### Formal Complaints

- 25.2 Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code or sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* (“MCIA”) in the case of Council members, may address their concerns through the formal complaint process set out below.
- (a) All formal complaints must be made using the City’s Complaints Form / Affidavit (see Appendix “B”) and shall be dated and signed by the complainant;

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- (b) The complaint must include an explanation as to why the issue raised may be a contravention of the Code and any evidence in support of the allegation must be included with the Complaints Form/Affidavit;
  - (c) Any witnesses in support of the allegation must be identified on the Complaint Form/Affidavit;
  - (d) The Complaint Form/Affidavit must include the name of the member alleged to have breached the Code, the section of the Code allegedly contravened, the date, time and location of the alleged contravention and any other information as required on the Complaint Form/Affidavit;
  - (e) The complaint shall be filed with the Integrity Commissioner who shall confirm that the information is complete as to (a), (b), (c) and (d) of this section. The Integrity Commissioner will determine whether the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or policies; and
  - (f) The Integrity Commissioner may request additional information from the complainant.
  - (g) If the complaint relates to an alleged violation of sections 5, 5.1, or 5.2 of the MCI, the complaint must be made within six weeks after the applicant became aware of the alleged contravention. The complainant must also provide a statutory declaration to this effect in their application.

#### Response Of Integrity Commissioner Of Complaint Outside Jurisdiction

- 25.3 If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to non-compliance with the Code, or sections 5, 5.1, or 5.2 of the MCI in the case of Council members, the Integrity Commissioner shall advise the complainant in writing as follows:
- (a) **Criminal Matter** – if the complaint is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
  - (b) **Municipal Conflict of Interest** – if the complaint is an allegation with respect to matters under the *Municipal Conflict of Interest Act*, save an except sections 5, 5.1, and 5.2, the complainant shall be advised to review the matter with their own legal counsel;
  - (c) **Municipal Freedom of Information and Protection of Privacy** – if the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be referred to the Clerk to have the matter reviewed under that Act; and
- 25.4 In the event that a resolution of the complaint is not achieved, any complainant or member may request the complaint be dealt with in accordance with Section 25.1 or 25.2 of this Code.
- 25.5 If the matter is covered by other policies with a complaint procedure or legislation, the complainant will be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner.

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- 25.6 If the Integrity Commissioner has already reviewed and rendered a decision or has investigated the subject matter of the complaint, the complainant will be advised that the matter cannot be further pursued through Code complaint process.

#### Refusal To Conduct An Investigation

- 25.7 If upon review of a complaint, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are no or insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the complainant and the member identified in the Complaint Form/Affidavit.

#### Opportunity For Resolution

- 25.8 If at any time, following the receipt of a formal complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the member agree, efforts may be made to achieve an informal resolution.

#### Public Registry and Periodic Reports to Council

- 25.9 The Integrity Commissioner shall report to Council annually. In his/her report to Council, he/she shall report on all complaints received and on their disposition. In addition, the Integrity Commissioner shall post all decisions of Formal Complaints regarding whether to conduct an inquiry, and the outcome of any inquiry, on a public registry established by the City for such purpose.

#### Section 26: Investigation

- 26.1 If the Integrity Commissioner determines that a formal investigation is required he or she shall proceed in the following manner, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under Parts I and II of the *Public Inquiries Act*.
- 26.2 The Integrity Commissioner shall provide a copy of the complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within fourteen days.
- 26.3 The Integrity Commissioner shall give a copy of the response provided by the member to the complainant with a request for a written reply within fourteen days.
- 26.4 If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any City work location relevant to the complaint for the purpose of investigation and potential resolution.
- 26.5 The Integrity Commissioner may make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation encountered during the investigation.
- 26.6 At any time the complainant may abandon the request for an investigation and the Integrity Commissioner will cease his or her investigation.

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**Section 27: Recommendation Report**

- 27.1 Upon completion of an investigation, the Integrity Commissioner shall report to the complainant and the member on the results of his or her review within ninety days of receiving a complete Complaint Form/Affidavit. If the investigation process is going to take more than ninety days, the Integrity Commissioner shall provide an interim report to the complainant and member indicating when the complete report will be available.
- 27.2 If during the investigation process, the complaint is sustained, the Integrity Commissioner shall report to Council, outlining the findings, the terms of any resolution and any recommended action within thirty days of the completion of the investigation. If the complaint is withdrawn or resolved, the Integrity Commissioner, within her/his discretion, may decide not to report to Council.
- 27.3 (a) If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report his or her findings to Council including a recommendation:
- (i) as to the imposition of a penalty as set out in the Municipal Act of: a reprimand; suspension of remuneration paid to the member for a period of up to ninety days, and/or
  - (ii) As to remedial action which may include but is not limited to:
    - 1. return of a gift or benefit;
    - 2. removal from a Local Board or committee;
    - 3. loss of Chairmanship;
    - 4. a verbal and/or written apology;
    - 5. Any other remedial action recommended by the Integrity Commissioner.
- 27.3 (b) Upon Council's decision on the recommendations, the Member who is the subject of the Integrity Commissioner's investigation and recommendations, shall comply with the Council decision. Failure to comply with Council's decision requiring the Member to carry out an action set out as a penalty or set out as a remedial action, shall constitute a contravention of this Code, without the requirement for a separate Code complaint.
- 27.4 If upon completion of the investigation, the Integrity Commissioner finds that there has been no contravention of the Code, or that a contravention occurred, however, the member took all reasonable measures to prevent it, or the contravention committed was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall set this out in its report to Council.
- 27.5 With respect to alleged violations of sections 5, 5.1, or 5.2 of the MCIA, if the Integrity Commissioner determines that, on a balance of probabilities, there has been a violation of the MCIA, or is otherwise of the opinion that it is in the City's interest for a judge to determine if there has been a violation of the MCIA, the Commissioner may apply to a judge for such a determination. For greater certainty, nothing in this Protocol shall prevent a complainant from bringing their own application to

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a judge for a determination of whether there has been a violation of sections 5, 5.1, or 5.2 of the MCIA.

### **Section 28: Duty Of Council**

- 28.1 The Council shall consider the report of the Integrity Commissioner within 30 days of it being received by the Clerk and shall take the action it considers appropriate with regard to the recommendation(s) of the Integrity Commissioner.
- 28.2 In circumstances where the alleged breach of trust or other misconduct is serious in nature, Council may pass a resolution, pursuant to the *Municipal Act, 2001*, requesting a judicial investigation into the Member's conduct.

### **No Complaints or Reports Prior to Election**

- 28.3 No complaint regarding a Member of Council or Local Board regarding a Code contravention or sections 5, 5.1, or 5.2 of the MCIA in the case of Council members, whether the Member is a candidate in an election or not, may be referred to the Integrity Commissioner for review and/or investigation between regularly scheduled Nomination Day and Voting Day in any year in which a regular municipal election will be held. Any complaint received after Nomination Day shall be deemed received by the Integrity Commissioner on November 15<sup>th</sup> in a regular election year and the complainant shall be so advised of this process. The time elapsed between Nomination Day in a regular election year and the inaugural meeting of the newly elected Council shall not be included in the time calculation referred to in section 9.0.
- 28.4 Notwithstanding section 9.7 of the Code, the Integrity Commissioner shall not make any report to General Committee or any other person after the regularly scheduled General Committee meeting immediately preceding Nomination Day in any year in which a regular municipal election is to be held.
- 28.5 If the Commissioner has not completed an inquiry before regular nomination day for a regular election the Commissioner shall terminate the inquiry on Nomination Day.
- 28.6 If an inquiry is terminated in accordance with section 28.5, the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after Voting Day in a regular election, the person who made the application or the member or former member whose conduct is concerned applies in writing to the Commissioner for the inquiry to be commenced.
- 28.7 Where an inquiry has been terminated, and the complainant, member or former member has requested the inquiry be carried out, the Integrity Commissioner shall be permitted to use any information and evidence obtained prior to the termination. If no request is made to carry out the inquiry, no review of investigation shall be made.
- 28.8 Council shall not consider whether to impose the penalties referred to in 27.3 on a Member during the period starting on Nomination Day for a regular election and ending on Voting Day in a regular election.

### **Section 29: Confidentiality Of Complaint Documents**

- 29.1 The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the City or

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not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the *Municipal Act*.

29.2 Pursuant to section 223.5(3) of the *Municipal Act*, this section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

29.3 If the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that in the Integrity Commissioner's opinion is required for the purposes of the report.

29.4 If the Integrity Commissioner issues an annual or other periodic report to Council on his or her activities, the Integrity Commissioner shall summarize the advice he or she has given but shall not disclose confidential information that could identify a person concerned.

### **Section 30: Other Duties Of The Integrity Commissioner**

30.1 In addition, to conducting investigations regarding alleged breaches of the Code, the Integrity Commissioner shall have the following responsibilities:

- (a) Provide information to Council as to their obligations under the Code;
- (b) Provide advice to individual members regarding specific situations as they relate to the application of the Code;
- (c) Provide advice to Council on other policies and procedures that relate to the ethical behavior of members;
- (d) Provide general advice on conflict of interest issues noting that this advice may not be used in defense of allegations related to conflict of interest;
- (e) Provide information to the public regarding the Code and the obligations of members under the Code; and
- (f) Provide an annual report to Council on the activities of the Integrity Commissioner.

### **Section 31: Requests For Advice**

31.1 Where an individual member is seeking to obtain advice from the Integrity Commissioner, the member shall submit to the Integrity Commissioner a completed Request for Advice Form (see Appendix "C") which shall be forwarded to the Integrity Commissioner for response.

31.2 The Integrity Commissioner shall provide his or her advice in writing to the member.

31.3 Any written advice given by the Integrity Commissioner to a member, as it relates to the Code, binds the Integrity Commissioner in any subsequent consideration of the member's conduct in the same matter provided the relevant facts known to the member were disclosed to the Integrity Commissioner.

31.4 Any written requests for advice and responses to such requests are covered under the *Municipal Freedom of Information and Protection of Privacy Act*.

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### **Section 32: Annual Report To Council**

- 32.1 In completing its annual report to Council, the Integrity Commissioner shall include information on the nature and volume of activity for the past year and provide examples, anonymized in respect of advice provided and the nature of complaints received and responded to.
- 32.2 The annual report of the Integrity Commissioner shall be provided to General Committee for information purposes. The report is a public document.
- 32.3 The Integrity Commissioner shall file his or her annual report no later than 6 months after his or her initial appointment and by March 31 annually thereafter.

#### **Related Policies:**

- Procedural By-law 2013-072 as amended
- Council Compensation
- Reimbursement of Council Expenses Policy
- Procurement By-law
- Hiring of Employees Policy
- Delegation of Authority Policy
- City of Barrie's Respect in the Workplace Policy, Council-Staff Relations Policy and associated policies and programs
- Code of Conduct for Employees
- Use of Corporate Resources for Election Purposes
- City of Barrie Technology Use Policy and Use of Corporate Assets Policy

#### **Related Legislation:**

- *Municipal Act, 2001*, S.O. 2001, c. 25;
- *Municipal Conflict of Interest Act*, R.S.O 1990, c.M. 50;
- *Municipal Elections Act, 1996*, S.O. 1996, c. 32;
- *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M. 56;
- *Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace)* 2009
- *The Human Rights Code*; and



- *The Criminal Code of Canada.*

**Date Approved by City Council:** 2010-08-23

**Dates Updated and/or Amended:** 2013-06-17, 2019-02-11

To be reviewed a minimum of once per term of Council.



**Appendix "A"**  
**Disclosure Statement**

Section 8 of the Council Code of Conduct regarding the acceptance of gifts and benefits, requires members to disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$150 or if the total value of gifts and benefits received from one source in a calendar year exceeds \$150. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Integrity Commissioner (per Section 9) within 30 days of receipt of such gift or benefit, or upon reaching the annual limit. Disclosure Statements are a matter of public record.

Nature of Gift or Benefit Received:

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Source of Gift or Benefit:

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Circumstances Under Which Gift or Benefit Received:

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Intended Use of the Gift or Benefit (i.e. will it be donated/provided to the City):

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Estimated Value of Gift or Benefit:

\$ \_\_\_\_\_

Date Gift or Benefit Received:

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\_\_\_\_\_  
Signature of Member

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date Statement Received by Integrity  
Commissioner



**Appendix "B"**  
**Formal Complaint Form / Affidavit**

I, \_\_\_\_\_ (full name) of the  
\_\_\_\_\_ (municipality) in the Province of Ontario do solemnly  
swear/(affirm and declare) that the following contents of this affidavit as subscribed are true and correct:

Permanent place  
of residence: \_\_\_\_\_

Mailing address (if different  
from above): \_\_\_\_\_

I have personal knowledge of the facts as set out in this Affidavit because

(insert reasons e.g. I work for... I attended a meeting at which... etc.) I have reasonable and probable  
grounds to believe that \_\_\_\_\_ (specify name of member) has contravened section(s)  
\_\_\_\_\_ of the Council Code of Conduct of the City of Barrie. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each  
paragraph being confined as far as possible to a particular statement of fact. If you require more space  
please use the attached Schedule "A" form and check the appropriate box below. If you wish to include  
exhibits to support this complaint, please refer to the exhibits as Exhibit A, B etc. and attach them to this  
affidavit.)

Please see the attached Schedule "A"

This affidavit is made for the purpose of requesting that this matter be reviewed by the City of Barrie  
appointed Integrity Commissioner and for no other purpose.

Identification # (of Identification provided)

Sworn (or Affirmed) before me at the City of  
Barrie, in the County of Simcoe, in the  
Province of Ontario on the \_\_\_\_\_ day of  
\_\_\_\_\_

\_\_\_\_\_  
**Signature (to be witnessed by Commissioner)**

**A Commissioner, etc.**

**Note:** This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority  
to confirm or verify the above sworn information. **THE CRIMINAL CODE OF CANADA** provides that: everyone commits  
perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him  
a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that  
the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen  
years (Section 131, 132), or by summary conviction (Section 134). Signing a false affidavit may expose you to  
prosecution under Sections 131 and 132 or 134 of the Criminal Code, R.S.C. 1985, c. C-46 and also to civil liability for  
defamation.







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**City of Barrie Council and Committee Member Code of Conduct  
Annual Acknowledgment of Compliance Form**

I \_\_\_\_\_ acknowledge and confirm that I received a copy of the City of Barrie Council and Committee Member Code of Conduct. I have read and understand the City of Barrie Council and Committee Member Code of Conduct, acknowledge that I must comply with its provisions, and that knowingly violating the City of Barrie Council and Committee Member Code of Conduct may result in complaints being submitted to and investigated by the Integrity Commissioner, with possible recommendations being submitted to Council on penalties or remedial action to be imposed.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

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APPENDIX "C"

PROPOSED AMENDED COUNCIL-STAFF RELATIONS POLICY

Policy Category/Section: C00- Governance – City Council

Approval Date and Motion:

Effective Date: March 1, 2019

Last review date: April xx, 2021

**Policy Statement:**

The City of Barrie will promote a respectful, tolerant and, violence and harassment-free relationship and workplace between Members of Council and the officers and employees of the Corporation, guided by the Council and Committee Member Code of Conduct, the Employee Code of the Conduct, Respect in the Workplace Policy and the Procedural By-law.

**Purpose/Application:**

In keeping with the City of Barrie's Corporate values, the purpose of this Policy is to provide guidance to ensure a tolerant, violence and harassment free workplace.

This Policy applies to all City of Barrie full-time, part-time, contract, casual and temporary employees and members of Council. This may include interactions at off-site job related functions and social events related to work and employment.

2. This policy applies to:

a. Discrimination, Violence or Harassment that may occur at any workplace/worksites or location where the business of the municipality is being conducted or during the course of any City business, activities and events at which City employees interact or are required to interact, including but not limited to: City premises and property; off-site premises and property; City sponsored functions, events and meals; travel venues while on City business; and any site where the employee is conducting City business or representing the City.

b. Discrimination, Violence, or Harassment that may occur between individuals associated with the City, including interaction but outside City business, activities and events, when and where such harassment could have or has had an adverse effect on a City employee and/or the City's work environment.

c. Discrimination, Violence or Harassment that may occur to employment related incidents that may occur away from the workplace, on social media or outside working hours, that have an impact on a City employee and/or the City's working environment, including affecting working relationships.

**Definition(s):**

Council shall mean the Council of The Corporation of the City of Barrie acting as a body.

Employee or staff shall mean a person employed by the City of Barrie, including full-time, part-time, contract, casual and temporary employees.

Member(s) of Council shall mean the Mayor and/or individual Ward Councillors of The Corporation of the City of Barrie.

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**Specific Policy Requirements:**

1. Role clarification and sensitivity are fundamental to the success of the working relationship between Council and staff. Both Council and staff are expected to enhance public education about the political and legislative process by providing context and process information about decision making. Policy making and implementation move along a continuum, with different roles at different times.
2. Both Council and City staff are required to have a solid understanding of and be guided by the following Policies that form the core structure for the roles of Council and Staff:

**City of Barrie Employee Code of Conduct**

The City of Barrie's Employee Code of Conduct applies to all employees. The Code of Conduct provides for how employees must conduct themselves when representing or acting on behalf of the City. It details the high expectations set for employee behaviour.

Staff shall provide objective advice to, and carry out the directions of, Council regardless of personal opinion.

As set out in the Corporate Social Media Policy, staff may not voice personal opinions about the Corporation or Council, fellow employees or the workplace in public forums. Social media accounts have personal profile pages and that information can be used to identify a person as a City employee. It is important to understand that the workplace, as defined in the Respect in the Workplace Program can extend to electronic platforms.

Staff must resolve any conflict between their personal or private interests and their official duties in favour of the public interest. Staff must serve the public interest by following both the letter and the spirit of the laws, policies, regulations and directions established by City Council.

**Council and Committee Member Code of Conduct**

The Council and Committee Member Code of Conduct establishes standards of conduct for members of Council, Local Boards and Committee Members in the individual conduct of their official duties. The Code represents general ethical standards. The Code does not replace Council Member's roles, responsibilities, actions and behaviours required by various statutes, by-laws and policies.

Section 19.6 of the Code provides that:

Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the City.

Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. Similarly, employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed for their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence employees in the performance of such duties and obligations.

Certain employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

There are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Code of Conduct and include dealing with constituents and the general public, participating as Committee members, participating as Chairs of Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff.

#### **Council Communications Protocol**

The Council Communications Protocol provides guidelines associated with the communications between Council and City staff.

Council is to send any questions or concerns/issues directly to the Chief Administrative Officer, or applicable General Manager or Executive Director in order to ensure the question or issue can be assigned to the appropriate staff in a timely manner and that the matter is followed up on. If contacting Directors via email members of Council are requested to copy the appropriate General Manager or Executive Director; to allow the Executive Management Team to track issues, identify trends and again ensure appropriate follow-up.

For Service Requests, members of Council are encouraged to contact Service Barrie. This will ensure that proper tracking and issuing of relevant work orders is undertaken. If contacting the Department Director directly on a service matter, a member of Council is requested to copy Service Barrie for tracking purposes.

#### **Procedural By-law**

The Procedural By-law establishes rules and procedures for the conduct of Council and Committee meetings. The By-law contains provisions setting out the conduct of members at meetings, use of language and the rules of debate.

Section 5 concerning the Conduct of members of Council provides that:

No member shall:

- a) Speak disrespectfully of the Reigning Sovereign or of any of the Royal Family, or of the Governor General, the Lieutenant-Governor of any Province, or any person administering the Government of Canada or the Province of Ontario;
- b) Use offensive words or un-parliamentary language in or against the Council or against any member;

- c) Criticize any decision of the Council except for the purpose of moving in accordance with the provisions of Section 8.15 of the Procedural By-law that the question be reconsidered; and
- d) Disobey the Rules of Council, or a decision of the Mayor or of the Council on questions of order or practice or upon the interpretation of the rules of the Council; and in the case where a member persists in any such disobedience after having been called to order by the Mayor, the Mayor shall forthwith put the question, no amendment, adjournment or debate being allowed, "that such member be ordered to leave his/her seat for the duration of the meeting of Council", but if the member apologized he/she may, by vote of the Council be permitted to retake his/her seat.

#### Respect in the Workplace Policy

The City recognizes the importance of having a workplace that preserves personal dignity and encourages mutual respect, support, physical and psychological safety, and understanding amongst employees. To that end, the City is committed to promoting a vibrant, healthy, safe and compassionate work environment where everyone is treated fairly, with respect, civility, and is free from Discrimination, Violence, and Harassment.

This Policy is supported by accompanying policies and procedures. This Policy should be read in conjunction with the Employee Code of Conduct – which is about our values, principles and standards of behaviour that govern our actions. These policies, procedures, along with other reference documents are linked below.

The Respect in the Workplace Policy has been developed in order to:

1. Define the behaviours and expectations that are required of all City employees in support of a physically and mentally safe and healthy work environment.;
  2. Adopt a proactive approach to preventing Discrimination, Violence, and Harassment.;
3. Comply with the City's legislative requirements under Ontario's Human Rights Code and Occupational Health and Safety Act respecting Discrimination, Violence, and Harassment.
1. This policy applies to:
    - a. All City employees, and individuals who interact with City employees, including but not limited to, contractors and consultants, Officials, volunteers, those appointed to Council's Committees and/or Boards, and patrons in the context of their interactions and dealings with City employees.
    2. This policy applies to:
      - a. Discrimination, Violence or Harassment that may occur at any workplace/worksites or location where the business of the municipality is being conducted or during the course of any City business, activities and events at which City employees interact or are required to interact, including but not limited to: City premises and property; off-site premises and property; City sponsored functions, events and meals; travel venues while on City business; and any site where the employee is conducting City business or representing the City.

- b. Discrimination, Violence, or Harassment that may occur between individuals associated with the City, including interaction but outside City business, activities and events, when and where such harassment could have or has had an adverse effect on a City employee and/or the City's work environment.
- c. Discrimination, Violence, or Harassment that may occur to employment related incidents that may occur away from the workplace, on social media or outside working hours, that have an impact on a City employee and/or the City's working environment, including affecting working relationships.
- d. Situations of domestic violence or persons with a history of violent behaviour that the employer becomes aware of that would likely expose a person to physical injury or violence in the workplace.
3. Any complaint concerning an Official who is governed by the Council and Committee Member Code of Conduct can be addressed under the Respect in the Workplace Policy, and concurrently pursuant to a process defined in the Council and Committee Member Code of Conduct.
4. Based on the above policies, by-laws and protocols, the following roles and expectations are established for Council and staff.

Roles of Council and Staff:

- Demonstrate commitment to communication and consultation among ourselves and with the public;
- Show leadership, relying on our knowledge and judgment, and respond based upon our areas of expertise; and
- Maintain confidentiality and, when appropriate, address confidential matters in "closed session" at Committee and Council meetings.

Council Role:

- To govern and provide political direction;
- To ensure that management systems work properly, establishing vision, goals, determining needs and outcomes to be achieved, and empowering effective staff performance;
- To determine corporate policy and make decisions about issues following consultation with City staff and community residents;
- To respond to constituent concerns, to keep City staff informed, to be open to discussion, and to ask when clarification is needed; and
- To understand that elected representatives do not have an administrative or managerial role in the day to day business of the organization.

City Staff Role:

- To provide timely reports to Council outlining factors that will assist in their decision making process, research policy issues as required, provide sufficient information based upon analysis and best professional expertise and judgment;
- To implement Council's decisions;
- To manage and identify the means for achieving corporate goals and outcomes;

- To provide appropriate follow-up to Council inquiries, to keep members of Council up-to-date and informed, to be open to discussion, and to ask when clarification is needed; and
- City staff do not have a political role.

It is expected that members of Council will:

- Request staff input prior to making important policy decisions and convey feedback to staff;
- Discuss issues with staff and advise staff of questions prior to Committee and Council meetings whenever possible;
- Request advice from the City Clerk about the appropriate wording of motions, amendments, and formal staff directions in accordance with the Procedural By-law;
- Consult with staff prior to making commitments to constituents;
- Respect staff advice when information is not available; and
- Not direct or attempt to direct the work of staff, when acting as individual members.

It is expected that staff will:

- Ensure that Council is apprised of any issues that may impact their decision making process;
- Deal with all members of Council in an objective, respectful and impartial manner;
- Present a corporate and community perspective to Council;
- Notify Council of changes to legislation and any unintended or unexpected impacts of policy decisions through written reports and/or presentations in a timely fashion;
- Notify Council of media inquiries or news releases;
- Through senior staff at the Chief Administrative Officer, General Manager or Executive Director level, convey feedback to Council members who may not be aware of existing policy or other workload demands and related issues;
- With the exceptions of emergencies, acknowledge or respond to requests for information from members of Council during regular hours, within 24 hours; and
- If a member of Council requests information that has not been collected or developed, consult with the CAO and/or General Manager/Executive Director prior to granting the request and advise the member of Council that the information is not currently available.

### **Responsibilities:**

Members of Council and officers and employees of The Corporation are required to adhere to this Policy and its governing provisions, including the City of Barrie Staff Code of Conduct, Council and Committee Member Code of Conduct, Council Communications Protocol, Violence in the Workplace Policy, Workplace Human Rights Policy and Procedural By-law.

### **Rationale and Legislative Authority**

Section 270 of the *Municipal Act* requires a municipality to adopt and maintain a policy with respect to the relationship between members of Council and the officers and employees of the municipality.

### **Related Policies, Legislation and By-laws**

- City of Barrie Employee Code of Conduct;
- Council and Committee Member Code of Conduct;
- Council Communications Protocol;
- Procedural By-law;



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- Use of Corporate Resources for Election Purposes Policy
  - Respect in the Workplace Policy

**Department Contact**

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