



Town of Happy Valley-Goose Bay

<b>Index: Administration</b>		<b>Policy Number: A0047-1</b>	
<b>Approved Date: February 28, 2023</b>	<b>Effective Date: February 28, 2023</b>	<b>Revision Date:</b>	
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**CODE OF CONDUCT- Municipal Officials**

**POLICY STATEMENT**

This code of conduct establishes rules of conduct for the Town of Happy Valley-Goose Bay (“the Town”) municipal officials. Part III of the *Municipal Conduct Act, 2022* (“the Act”) requires that municipalities establish a Code of Conduct to govern the conduct of municipal officials and sets out the minimum requirements required. This code of conduct is intended to set out the expectations on municipal officials, and to be read and applied in conjunction with applicable laws, employment policies or collective agreements. Nothing in this Code of Conduct is to be read in a way that limits the employer’s ability to manage the workplace or discipline employees for a breach of this Code of Conduct whether a complaint has been made in accordance with applicable law.

The Town is committed to the principles of integrity, honesty, impartiality, responsibility, and accountability in conducting its business affairs and maintaining the public trust. Municipal Officials are expected to conduct themselves ethically and professionally and in accordance with this Code of Conduct.

Where a provision of this Code of Conduct or a Town policy referenced as part of its application is contrary to Provincial or Federal legislation, the legislation shall supersede the impacted provision. All other provisions in the Code of Conduct and/or the policy in question shall remain in effect.

**APPLICATION**

For the purpose of this Code of Conduct, Municipal Official is defined to mean a Chief Administration Officer, an employee of a municipality, or any person acting with or without remuneration, under the direction of a municipality including fire chiefs and firefighters providing services for or to a municipality.

For the purpose of this policy, the Chief Administration Officer or CAO refers to the person appointed to the position of Manager under the *Municipalities Act, 1999*. In the absence of a CAO, this Code of Conduct shall be performed by the Town Clerk.

This Code of Conduct applies to municipal officials acting in their official capacity as municipal officials as well as off-duty conduct that is sufficiently connected to their position or that could reasonably discredit or hold into disrepute the reputation of the Town. Municipal officials must not engage in any conduct or activity that contravenes the Town’s Regulations or Policies, or any law in force which might:



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- Detrimentially affect or discredit the Town's reputation
- Cause a municipal official or councillor to be unable to properly perform his or her duties and/or responsibilities
- Cause other municipal officials or councillor to refuse or be reluctant to work with another municipal official or councillor
- Otherwise inhibit the Town's ability to efficiently manage and direct its operations

This Code of Conduct is intended to set out the expectations on municipal officials relating to the standards of conduct on various issues such as but not limited to:

- Use of influence
- Misuse of Public Assets and Fraud
- Confidentiality
- Social Media
- Harassment and Bullying
- No Adverse Actions or Reprisals
- Allegations in Bad Faith
- Legislative Compliance
- Complaints and Investigative Procedures
- Conflict of Interest

**PART 1  
PROVISIONS & GUIDELINES**

**STANDARD OF CONDUCT- Professional Behavior**

Municipal Officials are held to a high standard of professional behavior.

Municipal Officials must:

- Adhere to the policies and procedures of the Municipality
- Work in the best interest of the Town without regard for their own personal interests



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- Act competently and diligently and perform at a level expected of those working in the public interest
- Respect other municipal officials, Council, councillors and members of the public
- Must use language which is inclusive, respectful and refrain from using language that could be interpreted as abusive or disrespectful
  
- In private and public, conduct themselves in a manner which does not bring disrepute to themselves, their position, the Council or the Town
- Dress appropriately.

Municipal Officials must not:

- Make decisions, take positions, or make statements which are unreasonable, unjust, arbitrary,
- oppressive, or discriminatory
- Maliciously or falsely injure the professional or ethical reputation or the prospects or practice of employees of the municipality.

**USE OF INFLUENCE**

The Town strives to ensure fairness and objectivity in its decision-making processes. Without restricting the scope of this principle, it is considered a breach of the Code of Conduct for a municipal official to use his or her position to seek to influence a decision of another person to:

- Further, or seek to further, his or her private interests or those of his or her family; or
- Seek to improperly further another person's private interests.

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

Municipal officials must not:

- use or attempt to use their authority or influence in a manner that could reasonably be perceived as intimidating, threatening, coercing, commanding, or improperly influencing the actions of any person



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- communicate on behalf of the Town unless authorized by the Chief Administrative Officer or by virtue of a position or role the municipal official has been authorized to undertake by the Chief Administrative Officer

**MISUSE OF PUBLIC ASSETS AND FRAUD**

Municipal Officials are guardians of public funds and are responsible for delivering of a wide range of important public services which are supported by members of the public through their taxes. Municipal Officials owe the public nothing less than their full commitment to doing the best job they can in protecting the public purse. When buying goods or services

Municipal Officials must:

- Comply with the Town's purchasing policies
- Conduct the business of the Municipality in a manner that is efficient and must avoid waste, abuse, and extravagance in the provision and use of municipal resources.
- report all expenses promptly, accurately, provide adequate detail, and shall maintain all receipts, invoices and other relevant financial records and details when claiming expenses.

Municipal Officials must not:

- Request, use, or permit the use of municipal-owned vehicles, land, equipment, materials or other property for personal convenience or profit, except where such privileges are granted to the general public or except where authorized by Council or the CAO.

**CONFIDENTIALITY**

The collection, protection, access, use, disclosure, and disposal of personal information may only occur in compliance with the Access to Information and Protection of Privacy Act, 2015 (ATIPPA).



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Municipal Officials must protect all information in their possession, care or control that, if disclosed, would constitute a reasonable invasion of privacy.

Municipal Officials must not:

- Disclose or release confidential information obtained in the course of their duties, except as required by law or as authorized by the municipality to do so
- Use confidential information or official information which is not in the public domain for their personal or private gain, the private gain of those in their family or any other individual or a corporation.

For the purpose of this policy, confidential information means information in the custody and/or control of the municipality that is prohibited from disclosure pursuant to legislation or court order or any other information that pertains to the business or affairs of the municipality generally considered to be of a confidential nature, including, but not limited to:

- a. Any matter that falls under the exceptions to disclosure identified in the *Access to Information and Protection of Privacy Act (ATIPPA)*, whether or not a request for access has been made
- b. Personal information which would constitute an unreasonable invasion of privacy
- c. Potential acquisitions or disposition of real property
- d. Information which would reveal the substance of deliberation of a privileged meeting.
- e. Pending contracts including tenders, requests for proposals (RFPs), and records related to potential procurement
- f. Draft documents and legal instruments including reports, policies, bylaws, and resolutions that have not been the subject matter of deliberation in a meeting open to the public
- g. Employment and collective bargaining matters
- h. The security of the property of the Town
- i. A tender that has or will be issued but has not been awarded
- j. Contract negotiations
- k. Employment, labour relations, and human resource matters
- l. Litigation or potential litigation, including matters before administrative tribunals; and, advice that is subject to solicitor-client privilege
- m. Legal matters
- n. Law enforcement matters.



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**GIFTS AND BENEFITS**

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

Municipal officials shall not accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of his or her duties of office or employment.

For these purposes, a fee or advance paid to or a gift or benefit provided with the municipal officials knowledge to their spouse, child or parent is deemed to be a gift to that municipal official.

The rules above are subject to the following exceptions:

- Gifts having a value less than Fifty Dollars (\$50.00) which are given as promotional items to individuals, provided the gifts do not include money, cash or negotiable instruments;
- If the gift has absolutely no relationship with the status of the recipient as a Councillor (i.e., there is another relationship between the donor and recipient which caused the gift to be made);
- The gift is a randomly distributed gift such as a door prize which is won by a municipal official attending a conference, training session, or other event on behalf of the Town;
- The gift is an honorarium or other gift given in recognition for speaking at a seminar, conference, symposium or other similar event; or
- The gift is in the form of complimentary admission to entertainment events related to the performance of a municipal officials' duties.

**SOCIAL MEDIA**

The Town currently has a social media Policy A0028 that outlines the minimum requirements to be followed by ALL those working for or acting on behalf of the Town whether in their official capacity or as residents.



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This policy is to be applied in conjunction with this Code of Conduct and any applicable legislation (dependent on the content shared or expressed on social media) in setting the requirements to be followed by municipal officials. It is the municipal officials responsibility to ensure that they have read and understand the social media policy.

For the purpose of this Code of Conduct, social media refers to publicly accessible local and third party-hosted social media sites. This includes social networks and or platforms including but not limited to:

- |                                 |                   |
|---------------------------------|-------------------|
| <i>Facebook</i>                 | <i>Twitter</i>    |
| <i>Instagram</i>                | <i>Tik Tok</i>    |
| <i>Video &amp; File Sharing</i> | <i>Blogs</i>      |
| <i>Social Bookmarking</i>       | <i>Podcasting</i> |
| <i>Micro-Blogs</i>              | <i>Wikis</i>      |

Municipal officials must, where possible, conduct municipal business with residents through official accounts and devices and avoid conducting municipal business on personal devices or through personal accounts.

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

#### **HARRASSMENT AND BULLYING**

Municipal officials must not engage in harassment, bullying or any form of discrimination.

The Town is committed to eliminating where possible the hazard of workplace harassment, discrimination, bullying and disrespectful behavior. The Town's Policy A0041, **The Harassment Prevention Plan & Anti-Discrimination Policy**, shall be applied in conjunction with the Code of Conduct for municipal officials and the applicable legislation (*Occupational Health and Safety Act, The Human Rights Act 2010*, and any accompanying regulations) in setting the requirements for dealing with harassment, bullying and discrimination.



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Harassment is defined as any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome. Harassment may be intended or unintended. Harassment may include, but may not be limited to:

- a. Abuse of authority – harassment that occurs through a use of authority serving no legitimate work purpose
- b. Discriminatory harassment – harassment that is based on actual or perceived prohibited ground of discrimination as outlined in the **Human Rights Act, 2010**, such as race, colour, nationality, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, or political opinion
- c. Sexual harassment – harassment which is gender-based or of a sexual nature
- d. Bullying – a repeated pattern or mistreatment aimed at a specific person or group.

Municipal officials must treat members of the public, one another, and volunteers appropriately and without abuse, bullying or intimidation, and ensure that their work environment is free from discrimination, bullying and harassment.

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

**NO ADVERSE ACTIONS OR REPRISALS**

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

Municipal officials must take no action against a complainant or any other person for providing relevant information, when requested, to the Chief Administration Officer or to any other relevant person.

Municipal officials must not obstruct any person in carrying out the objectives or requirements of this Code of Conduct.





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**ALLEGATIONS OF BAD FAITH**

A municipal official shall not file a complaint under this policy which is retributive, made in bad faith, or with malicious intent. A complaint will not be deemed to be retributive, made in bad faith, or malicious solely because it is unfounded.

**INVESTIGATION**

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

**LEGISLATIVE COMPLIANCE**

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

- *Municipalities Act, 1999*
- *Municipal Conduct Act*
- *Municipal Elections Act*
- *Public Procurement Act*
- *Urban and Rural Planning Act, 2000*
- *Access to Information and Protection of Privacy Act, 2015*
- *Occupational Health and Safety Act*
- *Human Rights Act, 2010; and*
- Any accompanying regulations



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**PART 2**  
**CODE OF CONDUCT COMPLAINT AND INVESTIGATION PROCEDURE**

**PROCESS**

Complaints submitted alleging a breach of conduct under use of influence, use of public resources or fraud or harassment and bullying, the Chief Administrative Officer shall follow the procedure set out here.

When a complaint is received regarding another section of the Code of Conduct, the procedure followed is subject to the discretion of the CAO.

**RECEIVING A COMPLAINT**

1. A complaint filed under this Code of Conduct shall be filed with the Chief Administrative Officer (CAO).
2. In the event that the complainant or respondent is the CAO, the complaint shall be filed with the Mayor.
3. Where the complainant or respondent is the CAO, the following process will still apply, but the Mayor will act as the CAO for the purpose of administering the complaint.
4. The complaint shall be in writing.
5. A complaint may be made by alternate means where the complainant has a limited ability to read or write English or has a disability or condition that impairs their ability to make a complaint.
6. A complaint shall include the following:
  - a. The complainant's name
  - b. The names of the person or persons the complaint is about
  - c. A summary of the complaint, and any steps taken to resolve it
  - d. The date that the breach of the Code of Conduct occurred, if known; and
  - e. A description of how the complaint can be resolved, if applicable.



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7. A CAO may accept a complaint **confidentially** where, in the opinion of the CAO, it is reasonable to do so, taking into account the public interest.
8. A complainant may withdraw their complaint in writing or by alternate means where the complainant has a limited ability to read or write English or has a disability or condition that impairs their ability to make a complaint. The CAO or investigator may continue investigating where it is reasonable to do so, taking into account the public interest.
9. Where a complaint is received alleging criminal behaviour, or at any point it becomes apparent that criminal behaviour may have occurred, the CAO shall immediately contact law enforcement, and notify the Department of Municipal and Provincial Affairs through the Minister's Office.
10. A person may file a complaint within 6 months of becoming aware of a Code of Conduct violation. The CAO may accept complaints outside of that timeframe in instances of harassment, bullying, use of public assets or fraud, or where it is reasonable to do so, taking into account the public interest.

**INFORMAL RESOLUTION**

11. Where the CAO determines the complaint to be interpersonal in nature, or relates to a disagreement, the CAO may ask the parties if they wish to resolve the complaint through mediation, or Alternative Dispute Resolution (ADR).
12. ADR must not be used where there is a significant power imbalance between the complainant and respondent, where there is a reasonable apprehension of harm, where the allegations involve issues of financial impropriety, sexual harassment, violence, criminality, where either party does not consent, or where other circumstances would prevent the success of ADR.
13. Informal resolution efforts shall be concluded within 20 business days and may be extended for additional business days with consent of both parties and approval of council.



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**RESOLUTION OR AGREEMENT OF FACTS**

1. Where a complaint is successfully resolved or not resolved but complainants agree on the facts, the CAO shall write a report and either dismiss the complaint or make a determination that an official contravened the Code of Conduct.
2. Where a complaint is against a department head or an employee reporting directly to Council, or where the CAO determines it is necessary, the CAO shall provide a report to Council and Council shall either dismiss the complaint or make a determination that an official contravened the Code of Conduct.
3. The CAO or Council may decide upon appropriate penalties in accordance with applicable employment and/or labour law.

**FORMAL INVESTIGATION**

4. Where the complaint is not resolved or the facts are not agreed on, the CAO may investigate or appoint an investigator. There shall be 40 business days to conclude an **investigation from the date the informal resolution period has expired**. Upon request of the CAO, Council may approve up to an additional 40 business days for the completion of an investigation.
5. The investigator will notify the respondent within 5 business days of the failure of informal resolution and provide copy of the complaint.
6. The respondent may provide a written response to the CAO no later than 10 business days after receipt of a copy of the complaint.
7. The investigator will prepare a written report for council.
8. The report shall at a minimum outline the investigative process, facts, analysis, test (an assessment of the facts relative to the Code of Conduct), conclusion and MAY include recommendations.



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The format is flexible, but may take the form as below:

- Introduction
- Investigative Process
- Background
- Events before the incident
- The Incident(s)
- Events after the Incident
- Evidence
- Analysis
- Decision
- Recommendation(s)

9. Council shall review the report at a privileged meeting, and shall within 20 business days, dismiss the complaint or find that a municipal official contravened the Code of Conduct.
10. Council and/or the Chief Administrative Officer may decide upon appropriate disciplinary penalties in accordance with applicable employment and/or labour law.

**PART 3  
DISCLOSURE and CONFLICT OF INTEREST**

**DISCLOSURE STATEMENTS**

A conflict of interest is defined as per section 5 of the Municipal Conduct Act.

The CAO will file a disclosure statement in accordance with section 4(2) if the Act.

Department heads and those reporting directly to council shall file disclosure statements with the CAO, in the form set out in subsection 4(3) of the Act. However, Disclosure statements from spouses of these municipal officials are not required. Where there is a change in the information contained in disclosure



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statement, the councillor or CAO must report the change(s) to council within 60 days of becoming aware of the change(s).

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

**SUSPICION CONFLICT OF INTEREST**

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

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

**CONFLICT OF INTEREST- COMPLAINTS**

1. Where an individual believes a municipal official has acted in a conflict of interest, the individual may file a complaint with the Chief Administrative Officer
2. Where an individual believes a CAO has acted in a conflict of interest, the individual may file a complaint with Council
3. A complaint shall be in writing and shall include the following information:
  - a. The complainants name
  - b. The nature of the conflict of interest
  - c. The municipal officials actions in relation to the conflict of interest



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4. A complaint may be made by alternate means where the complainant has a limited ability to read or write English or has a disability or condition that impairs their ability to make a complaint

**CONFLICT OF INTEREST- INVESTIGATIONS**

For complaints relating to the CAO, a department head, or an employee reporting directly to council the procedure below will be followed:

1. The CAO shall send a copy of the complaint to the respondent within five business days after receipt of the complaint.
2. The respondent may provide a written response to the CAO no later than twenty business days after receipt of a copy of the complaint. The respondent shall be advised that their response will be provided to the complainant.
3. Where there is a written response, the CAO shall send a copy to the complainant within one business day after receipt of the written response.
4. The CAO shall review the complaint and the respondent's written response within ten business days after receipt of a written response, or where a written response is not provided, the CAO must review the complaint within ten business days after the time period to file the written response has expired, and must:
  - a) prepare a written report of the complaint;
  - b) refer the complaint to Council, along with a copy of the report to consider in a privileged meeting;
  - c) advise the complainant in writing, that Council is considering the complaint;
  - d) within fifteen business days after receiving the report, Council may, by resolution, advise the CAO to:



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- i. dismiss the complaint;
- ii. make a determination that the municipal official acted in a conflict of interest; or
- iii. order a third-party investigation to determine whether the municipal official acted in a conflict of interest.

In accordance with section 18(5) of the Act, the CAO may provide advice to Council on a matter in which the CAO has a conflict of interest where:

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

Council and/or the CAO may decide upon appropriate disciplinary penalties in accordance with applicable labour and/or employment law.

#### **PENALTIES**

##### **PENALTIES- Conflict of Interest**

Where a Chief Administrative Officer determines that a municipal official has acted in a conflict of interest, and dependent on whether the conflict of interest was a result of inadvertence or genuine error in judgment or not, the Chief Administrative Officer may apply appropriate disciplinary measures in accordance with the applicable labour and/or employment law up to and including termination where law permits.

##### **PENALTIES- Contravention of Code of Conduct**

Where a Chief Administrative Officer determines that a municipal official has acted in a conflict of interest, and dependent on whether the conflict of interest was a result of inadvertence or genuine error





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in judgment or not, the Chief Administrative Officer may apply appropriate disciplinary measures in accordance with the applicable labour and/or employment law up to and including termination where law permits.

**ACKNOWLEDGEMENT**

The Director of Human Resources and Employee Relations shall give a copy of this Code of Conduct to each new municipal official at the time of appointment except the Director of Protective Services who shall give a copy of this Code of Conduct to all firefighters and volunteer firefighters at the time of appointment. The Code will be made available to all municipal officials either through electronic means or printed copy.

Upon adoption of this Code of Conduct, a presentation shall be made to all existing municipal officials

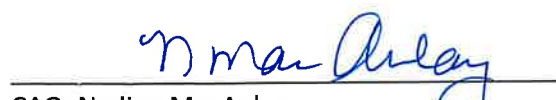
Furthermore, all municipal officials shall:

- Familiarize themselves with the Code of Conduct and comply with its principles
- If required, seek an interpretation of the Code from the Chief Administration Officer or Director of Human Resources and Employee Relations
- Make observance of the Code of Conduct as part of their duties and responsibilities

**Failure of the municipal official to receive training will not be an excuse for non-compliance with this Code.**

IN WITNESS WHEREOF, this policy is sealed under the Common Seal of the Town of Happy Valley-Goose Bay.

  
\_\_\_\_\_  
Mayor, George Andrews

  
\_\_\_\_\_  
CAO, Nadine MacAulay



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**CODE OF CONDUCT**

**(Municipal Officials)**

I confirm that I have read the *Code of Conduct* and that I understand, accept and will abide by all applicable provisions in this policy.

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Signature \_\_\_\_\_

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