

## Chapter 1

### Interpretation

#### 1.1 Frequently Asked Questions

Q. Does this By-law apply to me?

A. If you are City staff member, a volunteer with the City, a student or an appointee to an advisory board or committee of the City which does not have separate corporate existence (such as the Heritage Committee, the Committee of Adjustment, or the Parks, Recreation and Waterfront Advisory Board, the Brownfields Committee, the Economic Development Board, or the Airport Commission), this By-law applies to you.

This By-law won't apply to you if you are not a City employee, or if you are an appointee to a City Board or Committee that has independent corporate existence, such as the Health Unit, the Police Services Board, or the Library Board.

Q. What is meant by the Workplace? Is it always the same?

A. The workplace is defined as any premises (whether owned by the City or otherwise) where the business of the municipality is being transacted, including vehicles. As an example, if you are at a conference, you are there on City business and that will be your workplace during the formal sessions of the conference.

Much of what is discussed in the Code of Conduct does not apply to events which happen outside the workplace, but there are exceptions. In Chapter 7, which deals with Harassment and Discrimination, the definition of workplace is expanded in section 7.2(e) to include other venues, such as social settings. Also, in Chapter 9, which deals with Personal Conduct, there are some minimum standards of personal conduct in section 9.2(a) which the City expects from its employees everywhere.

Q. I am a member of a profession, and we have our own professional code of Conduct that is different than this By-law. Which do I obey?

A. You must obey the more rigorous requirements, whether those more rigorous requirements are in the City's By-law or in the Code of Conduct for your profession.

#### 1.2 Formal Policy

##### (a) Organization of By-law

This By-law is divided into chapters which deal with different elements of the

City's Code of Conduct. Each such chapter includes a set of frequently asked questions and the answers to those questions. Each chapter also includes the formal policy dealing with the topic considered in that chapter.

The questions and answers are not deemed to be a formal part of this By-law, but are presented for the assistance of the reader and for training purposes. The formal policy is the official policy for all purposes. The formal policy cannot be amended except by approval of Council, but the Director of Human Resources is allowed to amend and adjust the frequently asked questions as he deems appropriate from time to time, so that this policy may be more clearly understood by its users. The By-law contains statutory references which may alter from time to time, and the Director of Human Resources is authorized to review the text of the By-law to update any such statutory references so that they remain current. Also, the Director of Human Resources is authorized to publish this By-law from time to time in such forms as may appear to him or her to be more easily accessible by its users.

This By-law may be referred to as the "Code of Conduct" and references to a Code of Conduct in any municipal documents shall (unless the context clearly expresses a different intention) be deemed to be a reference to this By-law.

This By-law is to be read as a whole. While some effort has been made to place similar matters into specific chapters, it is inevitable that there will be some overlap between chapters and that multiple chapters may need to be consulted to reach the answer to specific questions.

#### (b) Self-governing Professions and their Standards of Conduct

Many staff of the City are members of self-governing professions which have extensive codes of conduct. These codes of conduct will be considered part of the City's code of conduct as though they were actually written into it, and a breach of these codes will be a breach of the City's requirements. In the event that the codes of conduct of self-governing professions impose higher requirements than the City's Code of Conduct, the more rigorous requirements will govern.

#### (c) Application of By-law

This By-law applies to all Employees (as defined below) in their dealings among themselves, with Councillors, and with the public - including all clients, vendors, and suppliers.

Although the definition of Employee includes volunteers and appointees to City advisory Boards and Committees, these individuals will not be included within the requirements of Chapter 4 of this By-law. In addition, where the enacting By-laws creating any advisory Boards and Committees define a standard for conflicts of interest

which differs from that contained in Chapter 3, the standard within the enacting By-law for the advisory Board or Committee shall govern.

At various locations throughout the By-law, there are defined roles and responsibilities given to supervisors. When references to supervisors are read in the context of appointees to City advisory Boards and Committees, the Chairperson of any applicable advisory Board or Committee will occupy the role of supervisor in respect of volunteer members of the Committee, and the General Manager or City Manager (as the case may be) having responsibility for the advisory Board or Committee will occupy the role of supervisor in respect of the chairperson.

None of the special rules above will apply to City Workers or municipal Councillors when they serve on City advisory Boards and Committees. The normal rules applicable to City Workers and members of Council shall always apply to them.

#### (d) Definitions

The following definitions shall apply to this By-law:

“City Property” includes real property (such as land or interests in land), personal property (such as goods, and equipment), and other property interests of any kind.

“Employee” or “Employees” means direct employees of the Corporation of the City of Brantford whether full-time, part-time, contract (including employees of staffing agencies) or casual (including students and volunteers), but does not include employees of local boards, subsidiaries of the City, bodies which have independent corporate existence, or independent contractors and their employees. It also includes appointees to City advisory boards and committees, unless those boards and committees have separate corporate existence.

“Conflict” and “Conflict of Interest” means an interest or activity, financial or otherwise, which is incompatible with the proper discharge of the duties and responsibilities of an *Employee*. The definition includes “apparent” or “reasonably apparent” financial conflicts, and conflicts of interest of *Relatives* will be deemed to be conflicts of interest of the *Employee*. Specifically excluded from the definition are the items referred to in section 4 of the Municipal Conflict of Interest Act.

“hired” or “hire” includes the original engagement of an *Employee* and the promotion or transfer of such *Employee*.

“Opposition to a Municipal Initiative” means any of the following measures taken by a City *Employee* in opposition to a Municipal initiative:

- (i) the exercise of a statutory right of appeal, or the exercise of any other statutory right available to the *Employee* in respect of the municipal initiative;

- (ii) participation in a public or other meeting in connection with the municipal initiative;
- (iii) the commencement of litigation to challenge the municipal initiative; and,
- (iv) participation in any other legal forms of protest against the municipal initiative.

“Outside activities” are private activities which are not part of an *Employee’s* assigned work and are not part of his or her job.

“Relative” means:

- (i) a spouse as defined in the Municipal Act, 2001 (as amended);
- (ii) children and grandchildren, including step children and step grandchildren;
- (iii) Sons-in-law and daughters-in-law;
- (iv) parents and grandparents, including step parents and step grandparents.
- (v) brothers, sisters, step brothers and step sisters
- (vi) mothers and fathers in law; and,
- (vii) brothers and sisters in law.

“Workplace” means any premises (whether owned by the City or otherwise) where the business of the municipality is being transacted, including vehicles.

“Wrongdoing” means any of the following actions taken by any City *Employee*, the Mayor, or any member of Council:

- (i) a contravention of any City By-law, or any Act of Parliament or the legislature of Ontario, or of regulations made under any such Act, if the contravention relates to the official duty of municipal *Employees*, Councillors, the Mayor, or any municipal public funds;
- (ii) a misuse of municipal funds or municipal assets;
- (iii) gross mismanagement of a municipal project or undertaking;
- (iv) an act or omission that creates a substantial and specific danger to the life, health or safety of persons or to the environment; and,
- (v) taking any act of reprisal against a municipal *Employee* who has disclosed a wrongdoing in accordance with Chapter 6.

## Chapter 2

### Gifts, Entertainment and Other Benefits

#### 2.1 Frequently Asked Questions

Q A vendor has provided (offered) me free tickets to see the Raptors. Can I go?

A. If this is an infrequent occurrence and you would be attending in the company of the vendor and you received advance approval from your supervisor (Director, General Manager, or City Manager), you can go. However, if the vendor will not accompany you then you should take all reasonable steps to return (or decline) the tickets, advising the vendor that City policy prohibits staff from accepting gifts. If returning the gift is not practical, the tickets should be donated or raffled off with the proceeds going to charity.

Q Each Christmas, a supplier drops off a bottle of wine. Sometimes we get baskets with cheese, jams, jellies and other edible items. Can I keep them?

A. If the gift has a value of less than \$50.00, you can keep it. If the value of the gift is greater than \$50.00, you must either decline the gift or return it. If you cannot do either, then you are to advise your supervisor who will make arrangements to give them to charity or raffle them off with the proceeds going to charity.

Q. What if the gift is for the whole department to enjoy? Is the answer the same?

A. The answer is the same. If the gift has a value of less than \$50.00, you can keep it. If the value of the gift is greater than \$50.00, you must either decline the gift or return it. If you cannot do either, then you are to advise your supervisor who will make arrangements to give it to charity or raffle them off with the proceeds going to charity.

Q A meeting with a business contact goes over the lunch period and we go to lunch. Do I have to ask for separate bills and pay my own way? I do not want to offend my business contact by asking for a separate bill.

A. If at all possible, you should pay your own way. If it would be impractical or socially awkward to pay, and the acceptance of the meal is an infrequent event, you can allow the business contact to pay for your meal. If the meal exceeds \$50.00 you must notify your supervisor in writing within one week using the form in Appendix 1.

Q. My department is buying some equipment, and the price is a good one. Can I contact the vendor and see if I can get one of the same units for myself at the same price? I am sure that they will be happy to sell one more and make a little extra money.

A. No, you can't. Even though the vendor will be happy to sell to you, you are taking advantage of your position with the City to get the equipment at the City price.

Q A couple of local vendors (i.e. a paint shop, shoe store, a recreation facility) offer

city employees and persons working in the downtown core a 10% discount. Am I allowed to take advantage of these discounts?

A. If you have not solicited the discount and it is already available to all City employees, then you may accept the discount. But you may not make a request for special pricing as a City employee.

Q I was attending a conference as a City employee with registration paid by the City. There was a door prize draw and my name was called for the prize. Can I accept the prize?

A. Yes, as long as it is a randomly distributed prize, but if the prize exceeds \$50.00 you must report this to your supervisor in writing within one week using the form in Appendix 1.

## 2.2 Formal Policy

(a) *Employees* are not to accept or solicit gifts, entertainment, or other benefits from any individuals or from any profit-making or non-profit organizations or associations which have business dealings with the City.

(b) The rule in (a) above is subject to the following exceptions:

(i) Infrequent business meals, if the meal is necessary for the completion of some task, and it would be impractical or socially awkward for the City *Employee* to pay for his or her meal separately;

(ii) Infrequent attendance or participation in social or sporting events in the company of a business contact, if approval is granted in advance by:

1. The applicable General Manager, where the *Employee* works within a Commission supervised by a General Manager;

2. The applicable Director, where the *Employee* works within a department which reports directly to the City Manager; or,

3. The City Manager, where the *Employee* reports to the City Manager.

(iii) Donations toward charitable events or causes, including City projects and other municipal undertakings;

(iv) Business gifts having a value less than Fifty dollars (\$50.00) which are given as promotional items to individuals or project teams, provided the gifts do not include money, cash or negotiable instruments;

(v) If the gift has absolutely no relationship with the status of the

recipient as a City *Employee* (i.e. there is another relationship between the donor and recipient which caused the gift to be made);

(vi) The gift is a randomly distributed gift such as a door prize which is won by an *Employee* attending a conference, training session, or other event on behalf of the City; or,

(vii) The gift is an honorarium or other gift given in recognition for speaking at a seminar, conference, symposium or a similar event.

(c) Unless the circumstances in (b)(v) above apply, if an *Employee* receives gifts, entertainment and benefits having value over Fifty dollars (\$50.00), the gifts, entertainment or benefits must be disclosed to the immediate supervisor of the *Employee* in writing using the form in Appendix 1. Such disclosure shall occur within one week following the receipt of the gift, entertainment or benefit, with a copy to:

(i) The applicable General Manager, where the *Employee* works within a Commission supervised by a General Manager; or,

(ii) The applicable Director and the City Manager, where the *Employee* works within a department which reports directly to the City Manager.

(d) An *Employee* who contacts a vendor selling goods or services to the City requesting "City pricing" for a personal purchase by the *Employee* shall be deemed to have contravened (a) above, however the foregoing shall not prohibit an *Employee* from partaking in the benefit of promotional pricing or other special pricing if that pricing is already available to City or other government *Employees* as a class.

(e) The Fifty dollar (\$50.00) limit in (b)(iv) and (c) above shall be re-examined from time to time as part of periodic and comprehensive reviews of this By-law to be conducted by the Human Resources Department, and may be amended administratively as necessary by the Director of Human Resources as part of such review without the need for the specific approval of Council.

(f) In the event that a gift, an opportunity for the receipt of entertainment (such as a ticket), or some other benefit is delivered to an *Employee* in circumstances where:

- (i) acceptance by the *Employee* would contravene this Chapter;
- (i) he or she was unable or failed to refuse it at the time of delivery; and,
- (ii) it is impractical for the *Employee* to return it to the donor,

the *Employee* shall advise his or supervisor who shall make arrangements for it to be given to charity or raffled off with the proceeds of the raffle being given to charity. If it is practical for the *Employee* to return such a gift or opportunity for the receipt of entertainment to the donor or to refuse it at the time of delivery, the *Employee* is

required to take that action.



## Chapter 3

### Conflicts of Interest

#### 3.1 Frequently Asked Questions

Q. I am a planner and my brother has applied for a zoning change. Can I deal with the application?

A. No, you can't. But you will need to advise your supervisor of the problem, and he or she will tell you exactly what to do after consulting with the Human Resources Department. Most likely, arrangements will be made for this matter to be dealt with by somebody else without your involvement. As long as you obey the instructions you get, you will be in compliance with this By-law.

Q. All right, I can't deal with the application. But can I help behind the scenes by talking to staff and Councillors to try to move the application along to make sure that the right decision gets made?

A. No, you need to stay out of it completely. Using your position at the City to advance your brother's interests is a conflict of interest. As indicated above, your supervisor will most likely have arranged for somebody else to deal with this matter. Let that other person handle it.

Q. I have lots of relatives, some of whom are quite remotely connected to me. For instance, what if it's my nephew that is asking for the zoning change, or a cousin?

A. Nephews and cousins are not included in the definition of relative, so you can deal with any applications that they submit. The definition only defines spouses, children, grandchildren, step children, step grandchildren, parents, grandparents, step parents, step grandparents, brothers, sisters, step brothers, step sisters, mothers-in-law, fathers-in-law, brothers-in-law and sisters-in law as relatives.

Q. What if I'm the one who needs the zoning change? What am I supposed to do?

A. You can apply like any other citizen, but you need to make sure that you do not use your position with the City to your advantage. Once again, your supervisor will give you the instructions that you need that will take account of the particular circumstances of your problem.

Q. A relative of mine is a contractor. Can he be hired for a job at the City?

A. As long as you are not making any decision or recommendation with respect to your relative's work with the City, or are using your position with the City to give your relative an advantage, he can work for the City. In such cases, it is best to obtain guidance from your supervisor. That way, as long as you follow the instructions he or she gives you, you will be protected from any blame.

#### 3.2 Formal Policy

(a) *Employees* will not make decisions on behalf of the municipality, make recommendations to the municipality, use their position with the municipality, or take any action on behalf of the municipality in respect of matters in which they have a *Conflict of Interest*.

(b) *Employees* are required to provide disclosure to the head of the division in which they work (in the case of the City Manager, this would be the Mayor) in writing of any *Conflicts* of interest which relate to their duties and responsibilities with the municipality. Supervisors receiving such a disclosure are required to give it due consideration, obtaining advice and assistance from the Human Resources Department or upper management as necessary, and provide the necessary direction to the *Employee* with respect to the resolution of the *Conflict of Interest*. Provided that the disclosure has been full and frank, any *Employee* who complies with the direction given pursuant to this process will be safe from discipline or criticism and will be able to rely upon the direction as a complete answer to any future disciplinary or other action by the City against the *Employee* in respect of the *Conflict of Interest*.

## Chapter 4 Outside Activities

### 4.1 Frequently Asked Questions

Q. Can I have my own business or work for someone else in addition to my job with the City?

A. Maybe. The answer is generally yes, as long as the conditions in section 4.2(a) of the Formal Policy do not apply. Also, you must notify your supervisor so that they are aware of and understand the nature of the business or second job. This is to ensure that all involved prevent any potential conflicts of interest between your job with the City and the activities associated with your business or second job.

Q. Can I participate in a political campaign or provide support for a political candidate?

A. You can work on a political campaign, publicly support or be opposed to a political candidate. If you work at or above the level of Director, you cannot work on a political campaign, or publicly support or be opposed to a political candidate, if that candidate is running for the position of Brantford's Mayor or other member of Brantford City Council.

Q. I have been approached to publicly endorse or advertise a particular product or service. Can I do that?

A. You can publicly endorse or advertise any product or service as a private individual. However, you cannot publicly endorse or advertise a product or service if you are doing so as a City employee. You will have to make sure that nothing in the text of any advertising identifies you as a City employee.

### 4.2 Formal Policy

(a) *Outside Activities*, whether consisting of employment for profit or participation in non-profit activities, are generally permitted subject to the following conditions:

- (i) Except for union or association business pursuant to a collective agreement or other similar contract, or unless specifically authorized by the supervisor of an *Employee*, the outside activity must not occur during work time. *Outside Activities* must occur wholly in the *Employee's* private (non-regular work) time.
- (ii) There must be no *Conflict* or *Conflict of Interest* with the *Employee's* official duties.
- (iii) There must be no adverse effect on the community or the ability of the

*Employee* or other staff to perform their duties and functions.

- (iv) There must be no advertisement by any *Employee* of the fact that he or she is a City *Employee* if such advertisement is for personal gain or for any commercial or political purposes.
- (v) Except for union or association business pursuant to a collective agreement or other similar contract, or unless specifically authorized by the supervisor of an *Employee*, no part of the outside activity will be done at the *Workplace*.
- (vi) The *Outside Activities* must not restrict the ability to be on call, or to work irregular hours if irregular hours are a requirement of the position.

(b) If the outside activity is a business or paid employment or if it consists of an involvement with an organization that has business dealings with the City, notification of the outside activity must be given to the immediate supervisor of the *Employee* with a copy to:

- (i) The applicable General Manager, where the *Employee* works within a Commission supervised by a General Manager;
- (ii) The applicable Director, where the *Employee* works within a department which reports directly to the City Manager; or,
- (iii) The City Manager, where the *Employee* reports to the City Manager.

(c) Supervisors who receive notifications are required to consider the notices which they have received and to review the notices with the Human Resources Department, and to take appropriate action in conjunction with the Human Resources Department to enforce the requirements of this Chapter.

(d) In addition to the requirements of the other rules in this Chapter, if the *Outside Activity* is a political activity which:

- (i) Consists of running for elected office, the *Employee* may have certain statutory rights allowing the *Employee* to have a leave of absence. There are other statutory provisions which may disqualify particular *Employees* from running for particular offices. But, subject to the applicable statutory provisions, and the other rules relating to *Outside Activities*, *Employees* will be generally free to run for any public office.
- (ii) Consists of working on a political campaign, publicly expressing support for a candidate, or publicly expressing opposition to a candidate, and the *Employee* engaging in the *Outside Activity* works at or above the level of Director, the candidate must not be a candidate for Mayor or position on City

Council.

(e) Despite anything else contained in this Chapter, the following outside political activities are always allowed and nothing in this Chapter shall be deemed to restrict any of the following:

- (i) voting,
- (ii) privately discussing and expressing views as concerned citizens,
- (iii) signing petitions,
- (iv) expressing *Opposition to a Municipal Initiative*; or,
- (v) making personal contributions to the campaign of any candidate.

(f) Except where contrary to the foregoing, *Employees* may make public statements and generally take the same actions that any other citizen may do, provided that in so doing:

- (i) it is clear that the *Employee* is acting for himself or herself and not on behalf of the City; and,
- (ii) the *Employee* will not use any information which he or she has obtained in the course of working for the City that is not generally available to all residents of the City.

## Chapter 5

### Nepotism

#### 5.1 Frequently Asked Questions

Q: I am married to a co-worker in the same department. How will this affect our employment?

A: One of you can never be promoted to be the supervisor of the other, but as long as you remain co-workers with no reporting relationship, this chapter will not affect you.

Q: My cousin would like to get a job with the City. How does this chapter apply?

A: This chapter only applies to relatives as outlined in the definitions of Chapter 1 which does not include cousins.

Q. My daughter is looking for part-time work during the summer. Can she be hired by the City?

A: Yes, she can, as long as your daughter follows the required application process, you have not intervened to advance her employment with the City, you will not directly supervise her and your daughter is the best qualified candidate.

#### 5.2 Formal Policy

(a) The City will avoid any practice that may give rise to *Conflicts of Interest* or difficulties for supervisors, co-workers, and subordinates when hiring *Employees* particularly as it relates to the employment of *Relatives of Employees* and Members of Council.

(b) *Relatives of City Employees* and *Relatives of Members of City Council* may only be *hired* by the City if each of the following conditions is met:

- (i) the hiring of the *Relative* will not result in the situation where an *Employee* will be the direct supervisor of a *Relative* or the situation where an *Employee* is the functional supervisor of a *Relative*;
- (ii) an application has been received in the normal manner and the standard recruitment and selection process was followed;
- (iii) the candidate to be *hired* is, in the opinion of the interviewers, the best qualified with respect to the requirements of the position;
- (iv) there was no undue influence exerted on the interviewers;
- (v) no potential *Conflicts* or other difficulties appear to exist; and,
- (vi) a *Relative* of the *Employee* to be *hired* did not take part in the selection process.

(c) Nothing in (a) shall be interpreted to suggest that contraventions of items (ii), (iii), (iv) or (v) shall be allowable in the hiring of *Employees* who are not *Relatives* of any City *Employee*.

(d) In the event that persons become *Relatives* of one another after they have been *hired* in circumstances where one supervises the other, the circumstances will be reviewed by the City Manager and the Director of Human Resources on a case-by-case basis to determine what action, if any, can be taken to remove the reporting relationship.

## Chapter 6

### Whistle Blowing

#### 6.1 Frequently Asked Questions

Q. What does this mean for me as a City worker?

A. There are two situations where workers might be worried about reprisals. One situation is where an employee exercises his or her right as a Citizen to oppose a municipal initiative, such as a road project or a planning application. The other situation is where an employee wants to report some kind of wrongdoing which he or she has observed. This chapter is meant to allow you to deal with these situations without worrying about any effects on your career.

Q. Can I use confidential information?

A. If you are opposing a municipal initiative, you are still required to respect the rules of confidentiality and information sharing contained in Chapter 10. If, however, you are reporting a wrongdoing, it may be necessary to disclose confidential information to properly disclose the wrongdoing, and this will be allowed.

Q. How come there are restrictions on how I report a wrongdoing? Why can't I just go to the newspaper with my observations?

A. The policy includes a very long list of authorities with whom you can share your observations, including any police officer or other law enforcement official. Anyone who is serious about wanting to get to the bottom of any wrongdoing that they may have witnessed will want that wrongdoing reported to the appropriate authorities so that any appropriate investigations can be undertaken. Also, because the disclosure of a wrongdoing allows confidential information to be disclosed, it is important that this information should be disclosed only to the authorities who will investigate the wrongdoing.

Q. What if a citizen makes an allegation of wrongdoing?

A. If a City employee receives an allegation of wrongdoing from any source, he or she is required to alert the human resources department which will coordinate the appropriate response. Because of the almost infinite variation of possible allegations that might be advanced, there is no standardized response that is defined to occur in all cases. An exception to this occurs with investigations about harassment and discrimination, about which much literature is available and for which a detailed procedure has been developed. This procedure is fully described in Chapter 7 and Appendix 2.

#### 6.2 Formal Policy

(a) None of the following measures shall be taken against a City *Employee* by



reason that the *Employee* has, in good faith, engaged in *Opposition to a Municipal Initiative* or has disclosed a *Wrongdoing* in the manner set forth in this policy:

- (i) a disciplinary measure;
- (ii) the demotion of the *Employee*;
- (iii) the termination of the employment of the *Employee*; and,
- (iv) a threat to take any of the measures in (i) to (iii) above.

(b) It is important that the disclosure of *Wrongdoing* be reported to the appropriate law enforcement or other officials who have been entrusted with responsibility for monitoring and combating *Wrongdoing*. For that reason, the provisions of (a) above shall only apply if the disclosure of any *Wrongdoing* has occurred in any one or more of the following means:

- (i) To a police officer or other law enforcement official;
- (ii) To the Mayor of the City;
- (iii) To the City Manager of the City;
- (iv) To any General Manager of the City;
- (v) To the Treasurer of the City;
- (vi) To the Auditors of the City;
- (vii) To the City Clerk;
- (viii) To the City Solicitor;
- (ix) To the immediate supervisor of the City *Employee* making the disclosure;
- (x) To the Director of Human Resources of the City; or,
- (xi) To any municipal Councillor of the City.

(c) Any City *Employee* within the list in (b) above who receives an allegation of *Wrongdoing* from any source shall consult with the Human Resources Department to determine what kind of response is appropriate to the particular allegation. It will be noted that in respect of allegations of harassment and discrimination, there are defined procedures in place pursuant to Chapter 7 and Appendix 2 of this Code.

## Chapter 7

### Harassment and Discrimination

#### 7.1 Frequently Asked Questions

Q. What should I do if I am accused of harassment or discrimination?

A. If you are asked by a co-worker to stop offensive behaviour, assess your behaviour seriously. Understand that even if you did not mean to offend, your behaviour has been perceived as offensive. If at all possible, cease the behaviour that the person finds offensive and apologize. Failure to cease in this behaviour will leave you more vulnerable to a formal complaint which could lead to disciplinary action if the complaint is substantiated. If a formal complaint is laid and you believe the complaint is unfounded and/or made in bad faith, you will be given every opportunity to express your point of view in the investigation process. You should obtain advice as soon as possible from your union or association representative, or from your solicitor, and you will be entitled to continuing assistance from them during the course of the investigation. In any event, document your version of the alleged incident, including times, places, what happened and any witnesses.

Q: I am a married female employee with two children. A promotional opportunity has arisen and I was advised by a senior manager that I could be moved into that position. However, another employee, who is a male, was offered the job. I think I've been discriminated against based on sex, marital status and family status. What should I do?

A: In most cases, staffing assignments are coordinated by the HR department through an open recruitment system with a structured selection process. It may be that other circumstances surround the promotion of the male employee or perhaps, a general misunderstanding and miscommunication exists surrounding this job advancement opportunity. It is recommended that you discuss this type of situation with Human Resources staff to determine whether a formal complaint should be made and investigated.

Q: Will my name be given to the person who is accused of harassing me? Can I make a complaint "off the record"?

A: Yes, but in order for the harassing behaviour to stop, the person must be apprised of the circumstances surrounding his/her actions. Although the Human Resources Department can sometimes deal with a matter informally so that your name cannot be revealed, merely describing the circumstances may be sufficient to allow the individual to make conclusions about who complained. If, however, you file a formal complaint, a copy of the document, which includes your name, will be given to the alleged harasser prior to the investigation process.

Q: If I am a third-party witness to harassment, what are my responsibilities?

A: All employees have a responsibility to ensure a respectful workplace. If you observe behaviours which are offensive, advise the individual immediately that his/her

actions are inappropriate. If the individual continues to harass others, report the situation to your supervisor or a member of the Human Resources department immediately.

Q: What should I do if there is disciplinary action taken against the harasser and the situation just gets worse?

A: Acts of reprisal are viewed as extremely serious and must be reported to your supervisor, another manager or a member of the Human Resources department so appropriate follow-up action can be taken.

Q: If someone sends me an e-mail that I find offensive, what should I do?

A: Advise the person who sent you the e-mail (preferably by reply e-mail for your record) that you found the e-mail offensive and that you would appreciate not being on the distribution list for such e-mails in the future. If you are uncomfortable dealing directly with the individual or if you continue to receive e-mails that you find offensive, advise your supervisor or the Human Resources department who will notify the individual on your behalf.

Q: If someone approaches me about a harassment complaint, what should I do?

A: Suggest to the individual that he/she discuss the situation with a union representative, a supervisor or a member of the Human Resources department.

If the discussion is about a harassment investigation in progress, remind the individual that information given during an investigation is confidential and should not be disclosed.

## 7.2 Formal Policy

### (a) General

The Corporation of the City of Brantford is committed to fostering an environment that is free from any of the forms of discrimination and harassment which are prohibited under the Ontario Human Rights Code. Discrimination and harassment are unacceptable within the City administration in any form and at any level.

Discrimination and harassment will not be tolerated and is subject to appropriate action. What is appropriate will depend on the circumstances of the particular case. Where the offender is an *Employee* of the City, the appropriate action may mean disciplinary proceedings up to and including termination. Where the offender is a volunteer or an appointee on a City committee, other appropriate action may be taken.

### (b) Persons who may take advantage of this Chapter

Anyone who alleges that they have suffered discrimination or harassment by a person governed by this policy may make a complaint in accordance with this policy.

### (c) Harassment

Harassment takes on many forms but can be generally defined as behavior such as conduct or comments which are unwelcome and inappropriate or otherwise offensive to an individual or group of individuals thus creating an uncomfortable work environment and both males and females can be victims of it. The Ontario Human Rights Code defines harassment as:

“...engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.” (Section 10).

Under the Code, every *Employee* has a right to be free from harassment in the *Workplace* on the following grounds:

- (i) Race;
- (ii) Ancestry;
- (iii) Place of origin,
- (iv) Colour
- (v) Ethnic Origin
- (vi) Citizenship;
- (vii) Creed;
- (viii) Age;
- (ix) Record of Offences
- (x) Marital Status;
- (xi) Family Status
- (xii) Disability

All *Employees* also have a right to be free from harassment on the basis of sex and to be free from sexual solicitation and reprisals for refusing or rejecting sexual advances.

Harassment may be one incident or a series of incidents and may also exist systemically as part of the work environment. For purposes of this Chapter, harassment will be interpreted in a manner consistent with the Human Rights Code, which does contain some exceptions and interpretive provisions.

### (d) Discrimination

Discrimination is not defined by the Ontario Human Rights Code, however Section 5(1) of the Act reads as follows:

Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, or disability .

For purposes of this policy, discrimination will be interpreted in a manner consistent with

the Human Rights Code, which does contain some exceptions and interpretive provisions. Decisions under the Code have recognized that discrimination may be direct or “constructive”. Direct discrimination is easily recognized but constructive discrimination is more subtle, and includes situations where occupational requirements effectively exclude individuals by race, ancestry, place of origin, etc.

(e) Expanded Definition of the *Workplace*

For purposes of this Chapter, the *Workplace* has an expanded definition beyond that set forth in Chapter 1 and the *Workplace* is not confined to the offices and buildings of the Corporation. “*Workplace*” has been interpreted broadly by the Ontario Human Rights Commission and by recent case law and as applied to the City would include other locations and situations in the course of employment, such as during business travel, work-related functions or other locations where the prohibited behaviour may have a subsequent impact on the work relationship, environment or performance.

Conduct, comments or behaviour which constitutes harassment and occurs in locations covered by this expanded definition are subject to investigation under this policy.

(f) Confidentiality

The Corporation, through its management staff and the Human Resources Department, must ensure that complaints are investigated and handled in a manner so that the identities of the persons involved are kept confidential. It must be recognized that, to the extent that the complainant chooses to initiate proceedings or make comments outside the Corporation’s internal harassment complaint procedures, confidentiality cannot be guaranteed. It must also be recognized that information collected and retained is subject to release under the Municipal Freedom of Information and Protection of Individual Privacy Act, the Ontario Human Rights Code or the rules governing court proceedings.

The investigation process will involve the direct and indirect collection of personal information in relation to the complainant and the person against whom any complaint is advanced. Persons investigating discrimination or harassment on behalf of the Corporation are expressly authorized to collect any such personal information as may be required to properly conduct the investigation.

(g) Obligations and Responsibilities

Everyone governed by this policy is responsible for ensuring that all City operations are free from discrimination and harassment.

The City Manager and the General Managers are specifically responsible for ensuring that this Chapter is accessible and supported. They are responsible for ensuring that their Directors, Managers and Supervisors are given the appropriate

support, encouragement, opportunity and resources to fulfill their respective roles.

Directors, Managers and supervisors have specific responsibilities to create and maintain a *Workplace* which is free from discrimination and harassment. They are critical to the success of the policy. They are specifically responsible for ensuring that the policy is communicated and understood by all staff and that it is supported and encouraged and are also responsible for preventing the development, escalation or recurrence of discrimination/harassment.

Human Resources staff are responsible for ensuring that this Chapter is supported and developed. Human Resources staff are also responsible for conducting investigations of all formal harassment and discrimination complaints and making recommendations. As well, they are responsible for ensuring that the environment is free from systemic problems which create or support harassment. Human Resources staff will act as a neutral source of information and advice for all *Employees* and advise and assist management throughout the process. Finally, Human Resources staff are responsible for training and education programs which further the understanding of this Chapter and issues of harassment and general human rights.

This Chapter anticipates an active and supportive role of the various unions and associations which represent the *Employees*. All *Employees* are encouraged to seek the assistance and advice of their union/association representatives prior to engaging in, or at any time throughout, the complaint process.

#### (h) Complaint Process and Investigation Procedure

The process for making harassment and discrimination complaints and the investigation of allegations of harassment and discrimination is fully set forth in Appendix 2 to this By-law.

The Corporation recognizes that it is possible for allegations to be advanced against the very persons required or permitted to investigate or deal with complaints under this policy. In such cases, a person who wishes to make a formal or informal complaint may contact any member of the Corporation's management with whom the complainant is comfortable. The manager so contacted shall bring the *Conflict of Interest* to the attention of senior management who shall ensure that the complaint is investigated by persons who come as close as possible to meeting the requirements of this policy but who have no *Conflict of Interest*, and in such circumstances this policy shall permit all necessary substitutions.

#### (i) Freedom from Reprisals

Everyone who submits a complaint has a right to be free from reprisals or threats of reprisals as a result of filing a complaint or being a party to a complaint. Anyone who provides evidence in the course of the investigation of a complaint, or who actually performs the investigation of a complaint has a right to be free from reprisals or threats

or reprisals as a result of their involvement in the investigation process. Acts of reprisal will be viewed as extremely serious breaches of the requirements of this Chapter.

The Corporation recognizes that an investigation may properly result in a determination that no discrimination or harassment occurred, and that such a determination is not in itself evidence of any impropriety in the making of the complaint. It is possible, however, that in certain rare cases an allegation of harassment or discrimination may be advanced which not only lacks any foundation, but which also was put forward with full knowledge that there was no foundation to the complaint and with a malicious intent to harm the reputation of the persons against whom the complaint was laid. In such cases, the person aggrieved shall be entitled to advance a complaint under this policy, and the investigation of this complaint and any disciplinary action which may result therefrom is not regarded by the Corporation as any form of reprisal.

In addition, in circumstances where there is fault on both sides of a complaint, it shall not be an act of reprisal when the Corporation takes disciplinary or other action against a complainant in respect of inappropriate acts or omissions on their part.

## Chapter 8

### Personal Use of City Property

#### 8.1 Frequently Asked Questions

Q An employee asked if they could use a City-owned utility trailer on the weekend to move some things. Is this allowed?

A. No. Personal use of city property is not permitted. Allowing the employee to use the trailer is a violation of the policy and also puts the city at risk if there is an injury caused by use of the trailer.

Q. I have a city-owned vehicle assigned to me to do my job. Can I take it home and run errands with it?

A. While you may be assigned a city vehicle as part of your job (and may even be allowed to take it home), you must not use a city owned vehicle for personal use. In rare circumstances, personal use of the vehicle may have been approved by Council, through an employment agreement or within the official job description for the position, and in such circumstances personal use would be satisfactory as long as it fits squarely within the established limits.

Q. I have been provided a laptop computer for work. Can I take it home (to do assignments, type my resume, letters or use other programs on it)?

A. The rules for personal use of computer systems are the same for laptops as they are for desktop computer systems but, even though some personal use is allowed under the policy, you are not entitled to use other programs on the computer that were not obtained by the City.

Q. It is my parents' anniversary and I would like to borrow a laptop computer and projection machine to show pictures at their reception. Is this allowed?

A. No. Although the formal policy allows some use of City computer equipment for personal use, this exception is not designed to allow the use of public equipment to provide entertainment at a private party.

Q. Can I use the Internet at work to check my email at home or to pay some personal bills using Internet bill payment?

A. If you check your email or pay your bill and it does not affect your work, and it does not cause any additional expense or interfere with normal city business, this is okay. Looking at pornography or spending long periods of time surfing the web instead of working is not satisfactory.

Q. How long do I have to keep emails?

A. You may delete e-mails anytime and all users are encouraged to delete emails



after reading. If you have printed the e-mail, it is subject to the record retention schedules which apply to your particular department.

Q. I have a software program that I use at home to do publishing of documents and forms that I would like to use at work. Can I bring a disk in and save it to my hard drive?

A. Employees must not install any software, not purchased by the city, on their computers. Many programs have strict licensing requirements. Having unlicensed software on city computers risks copyright laws and the city may be fined for using unlicensed software. There is also the risk of bringing viruses from your home computer to the city network or the program to have an adverse affect on other city software systems.

Q. I would like to have my own personal printer. Can I buy one and connect it to my computer in my office?

A. Only if you get specific approval from the IT department.

## 8.2 Formal Policy

### 8.2.1 General Provisions

There will be no use or appropriation of *City property* for Personal use or purposes by *Employees*, unless that *City property* is generally available to the public and is being used by the *Employee* in that capacity like any other member of the public (i.e. using a City park or other facility for recreational purposes). This general rule will be subject to exceptions:

(a) If personal use of the *City property* is provided as part of employment or duties and the personal use is:

- (i) approved by Council;
- (ii) contained in a an official job description on file with the Human Resources Department; or,
- (iii) within an employment agreement or collective agreement.

(b) If the use of *City property* consists of the personal of telephones, internet, computers, facsimile machines, cell phones, or photocopiers and all of the following are satisfied:

- (i) It does not cause any additional expense to the City (i.e. there is full reimbursement of any charges)
- (ii) It is not excessive having regard to the circumstances;
- (iii) It does not have a negative overall impact on *Employee* productivity;
- (iv) It does not interfere with the normal operation of the department or work unit, or negatively impact other employees;
- (v) It will not compromise the City administration in any way;

- (vi) It will be ethical and not contravene any applicable law or City policy; and,
- (vii) It does not represent a *Conflict of Interest*.

(c) If the *City property* consists of discarded items and the approval of the supervisor of the area from which the discarded items originated has been obtained.

#### 8.2.2 Specific Rules relating to Computers

In addition to the rules in 8.2.1, the following rules apply to the use of computer equipment:

##### (a) Property Rights

Electronic records stored on City computer systems or equipment are the property of the Corporation of the City of Brantford. The City asserts the right to access and monitor records in electronic format.

##### (b) Prohibited uses

Users of City computer equipment shall not:

- (i) Attempt unauthorized access to systems, information, processes or products;
- (ii) Broadcast e-mail messages that are not work related;
- (iii) Propagate viruses, or send or download materials which may impact the operating efficiency of the system;
- (iv) Undertake any other activities that can unduly impact the use or performance of others
- (v) view, retrieve, transmit or disseminate:
  - 1. any pornographic or obscene messages, images, or materials;
  - 2. any other messages, images or materials which are offensive to human dignity.

##### (c) Records Retention

E-mails that are not filed in hard-copy may be disposed of at the user's discretion. Users are encouraged to delete messages that are not filed in hard-copy form as soon as the message has been read. Attachments to e-mail messages should be detached and filed electronically or printed and filed in hard-copy records.

##### (d) Installation of Software

Only licensed software and registered shareware acquired by and paid for by the

municipality are to be operated on the municipal system. Computer games acquired by and paid for by the municipality as part of a training package may be installed on municipal equipment but no other games, including shareware games, are to be installed on municipal equipment. Users of the licensed software are to abide by the terms of the license agreement, and no municipally licensed software is to be copied or transferred to home computers. The IT department is to be notified of all licensed software and registered shareware acquired by and paid for by the municipality, along with the license number and the machine on which is loaded.

No software of a personal nature is to be maintained on the municipal system.

(e) Attachment of Hardware to City Computers

Unless prior approval is received from the IT department, no personal hardware shall be attached to City computers.

## Chapter 9

### Personal Conduct

#### 9.1 Frequently Asked Questions

Q. What does gender-neutral language mean? What are some examples?

A. Gender neutral language removes any reference to a particular gender. For example, in a Committee or Board of Directors situation, to address someone as the “chairman”; the appropriate terminology is “chair”. Any reference to one gender should be removed completely.

Another example of inappropriate language is to call administrative or clerical staff as “the girls” or “the boys”. This may be considered by some as disrespectful or degrading.

Q. I am on a City committee with a number of City and other stakeholder representatives. There is one City employee who talks negatively about other employees, and shares personal information about other staff at these meetings. Is this okay?

A. No. Disclosure of personal or otherwise confidential information about fellow employees, managers, or staff is not appropriate. Relations between staff, staff and councillors, and staff and the public should always be civil and premised on mutual respect. This means that staff should always use polite and respectful language. They should not engage in patronizing or condescending behaviour, and they should not make defamatory statements about one another.

Q. My supervisor asks me to run personal errands such as picking up gifts for their spouse. Is this part of my work responsibilities?

A. No. Asking a subordinate or another City employee to perform personal errands is not appropriate. If you are not comfortable talking to your supervisor about this, you can discuss the matter with the Human Resources Department and they will help you.

#### 9.2 Formal Policy

(a) *Employees* shall ensure that their personal conduct within the *Workplace* and elsewhere does not adversely affect:

- (i) their ability to perform their official duties;
- (ii) the ability of other *Employees* to perform their duties; or,
- (iii) public confidence in the official’s functions, the organization, or in the integrity of the public sector.

(b) Management staff should not ask other *Employees* to perform personal services for them. Examples include asking a subordinate to pick up dry cleaning, performing personal errands, etc.

(c) Staff should remain neutral in their service to all councillors.

(d) Relations between staff and staff, and between staff and councillors, and between both staff and councillors and the public, should always be civil and premised on mutual respect. This means that staff will use polite and respectful language to each other, and will not use offensive language or gestures, nor shall they engage in patronizing or condescending behaviour, or make defamatory statements about one another.

(e) Without limiting the generality of (d) above, when writing reports and in making formal presentations, staff shall use gender-neutral language whenever possible.

## Chapter 10

### Relations with the Media and Information Sharing

#### 10.1 Frequently Asked Questions

Q. A member of the media has contacted me requesting that I answer some questions that are related to a project or an activity that I am involved with as part of my job with the City. Should I provide the media with answers to their questions?

A. If you have been identified as a media contact person for general activities or for a specific purpose, you could respond to the questions from the media.

If you have not been designated as a person to deal with the media, or if you are uncomfortable answering the specific questions, before answering any questions, you should contact your supervisor to determine who will deal with the questions from the media. In any event, you or your supervisor should let the member from the media know who will answer their questions as soon as possible as the City promotes having a good working relationship with the media.

#### 10.2 Formal Policy

##### (a) Employees who may deal with the Media

The City Manager, the General Managers, the members of the Senior Management Team, and Directors, or other staff authorized by any of the foregoing, may deal with the media. Other staff who receive inquiries from the media shall direct them to one or more of the foregoing.

Where volunteers serve on advisory boards and committees which are subject to this By-law, the Chairpersons of such advisory boards and committees may deal with the media in respect of the activities of such advisory boards and committees.

##### (b) Confidential Information

Except to report a wrongdoing pursuant to Chapter 6, no confidential information (including but not limited to any confidential report) shall be released to any person who is not a member of the City administration.

## Chapter 11

### Dress and Attire

#### 11.1 Frequently Asked Questions

Q. I have a job where I am in and out of the office. For my out of the office times, it is appropriate for me to wear blue jeans. What should I do?

A. The prohibition against wearing jeans is for people who work exclusively in an office environment. If there are days when you are exclusively in the office, jeans would not be appropriate for those days. But if you are in and out of the office every day, you are never exclusively in the office and the prohibition against wearing jeans does not apply to you.

Q. Someone in my department wears really strong cologne, which triggers my allergies and asthma. What should I do?

A. The policy recommends that fragrances be used in a limited fashion. If you are comfortable, simply ask the person with the strong cologne to reduce or stop using it. If you are not comfortable, let your supervisor know that the fragrance is bothering you and that it is affecting your ability to complete your work.

Q. What exactly can I wear on a dress down day? How is it different than any other day?

A. On a dress down day, employees who are normally prohibited from wearing blue jeans may wear them.

#### 11.2 Formal Policy

The purpose of this Chapter is to ensure that all Corporate *Employees* maintain a professional demeanor while not limiting expressions of taste and individuality. Employee's attire is a reflection of their professionalism and that of the Corporation. *Employees* should dress appropriately to conduct municipal business and, more specifically, to reflect their position within the Corporation. A suitable appearance is important for *Employees* who, at any time, may come into contact with the public and municipal clients

##### (a) Basic Rules

*Employees'* clothing shall comply with the following rules:

- (i) All clothing should be clean and neat in appearance. It is recognized that some positions will cause clothing to become soiled during the course of a workday, but every *Employee* should begin his or her workday with clean and neat clothing.

(ii) Different positions will have different requirements. *Employees* who, for instance, do yard work, work in a fitness centre or work as lifeguards, will have different requirements than office workers at City Hall. *Employees* must wear clothing which is appropriate to the jobs that they do and the degree of professionalism that they must present.

(iii) Work schedules should be taken into consideration when dressing. Meetings scheduled with customers require appropriate attire whether it is in the office or in the field.

(iv) Personal safety must be considered when choosing clothing so that the chance of any accident is minimized.

(v) For any *Employee* at any *Workplace* at any time, it will be inappropriate to wear any attire with inappropriate messages, graphics, expletive language, etc.;

(vi) The following clothing is generally unacceptable, but may be worn if an *Employee* works in an athletic facility where the clothing is necessary for his or her job:

- Tank tops, Muscle shirts
- Exercise apparel
- Halter tops, tube tops, shirts that expose a bare midriff.
- High-cut, cut-off or biker shorts
- Leggings or exercise type pants (spandex or lycra);
- Beach wear
- Sweat pants, Athletic pants

(vii) *Employees* shall limit their use of fragrances, especially when they work in an office environment where other *Employees* or members of the public may be negatively affected.

(viii) For *Employees* who work exclusively in an office environment, the wearing of blue jeans is unacceptable except on dress-down days or other special occasions (such as a day when *Employees* are moving office or doing other unusual work) as may from time to time be designated by department management.

#### (b) Non-Compliance

An *Employee* who is deemed to be dressed inappropriately may be requested to return home and change by their Department Head or designate for failing to adhere to



acceptable standards of dress and appearance.

(c) Dress Down Days

(i) Every Friday is designated as a "Dress Down Day". The same standards of dress which are applicable on other days shall apply to dress down days, with the single exception that *Employees* who are not otherwise permitted to wear blue jeans may wear blue jeans on a dress down day.

(ii) Dress-down days are not available to those *Employees* with a specific dress / uniform policy (e.g. Fire Fighters and transit operators), or are required to wear certain clothing which has been issued pursuant to the provisions of any applicable Collective Agreement, or generally where the wearing of specific clothing is a safety requirement.

## Chapter 12

### Alcohol and Drug Use

#### 12.1 Frequently Asked Questions

Q. I am taking medication that will impact my ability to perform at work. Can I still go to work?

A. Yes, as long as you fully disclose to your supervisor that you are currently taking medication that may impact your ability to perform your required tasks at work, you can still go to work. However, if one of your responsibilities is to operate dangerous machinery, your supervisor may assign you to different tasks until your medication is completed.

Q. Can I have a drink on my lunch hour?

A. Not if your job is operating a motor vehicle or operating dangerous machinery, or if there are other requirements specific to your position that would prohibit the drinking of alcohol at lunch. Otherwise, use of alcohol outside the workplace is not controlled by this Chapter unless it negatively affects your work performance. Any consumption of alcohol which negatively affects your work performance will be a contravention of the requirements of this Chapter.

Q. What about drinking at a work-related conference or evening meeting?

A. Unless an event is approved by the Mayor and Council, no alcohol or drug-use is permitted within the workplace unless the drug is prescribed or being taken for treatment of a medical illness or disorder. While attending the working part of any conference or meeting, you are transacting City business and the consumption of alcohol or drugs is not permitted. But after the conference has ended or the formal working activities of the conference have ended for the day, you are not at the workplace and you can drink at these times. Even at these times, you will be covered by Chapters 7 and 9 of the Code of Conduct where an expanded definition of workplace is used.

#### 12.2 Formal Policy

(a) While within the *Workplace*, no use of alcohol is permitted unless the consumption of alcohol occurs at an event approved by the Mayor or Council at which alcohol is served.

(b) While within the *Workplace*, no use of drugs is permitted.

(c) This Chapter shall not apply to alcohol and drug use outside the *Workplace*, with three exceptions. In each of the following exceptions, the use of alcohol or drugs outside the workplace will be a contravention of this policy:

(i) If the alcohol or drug use negatively affects the performance of the Employee within the *Workplace*. Without limiting the generality of the foregoing, an *Employee's* performance will be deemed to have been negatively affected if

he or she consumes alcohol and comes to work with a smell of an alcoholic beverage while exhibiting erratic or unusual behaviour, stumbling, difficulty speaking, loss of balance, or lack of coordination;

(ii) If it is a position requirement for a specific position that an *Employee* shall have no alcohol or drugs in his or her system while within the *workplace*, and the *Employee* comes to work or resumes work following a lunch or other break with alcohol or drugs in their system; or,

(iii) If the *Employee* operates a City-owned motor vehicle or dangerous machinery as part of his or her duties, and the *Employee* comes to work or resumes work following a lunch or other break with any alcohol or drugs in their system.

(d) Any staff who have taken alcohol or drugs, whether such consumption is allowed or prohibited by the provisions of this Chapter, that might interfere with their ability to operate motor vehicles (where the operation of a motor vehicle is part of the *Employee's* job duties) or dangerous machinery (where the use of dangerous machinery is part of the *Employee's* job duties), or otherwise perform their job duties, must advise their supervisor who will be required to take appropriate action.

(e) This Chapter shall not prohibit the use of alcohol or drugs in any of the following situations:

(i) Where alcohol is consumed as a trace ingredient in prescription medication being taken by an *Employee*; or,

(ii) Where drugs are taken for the treatment of a medical illness or disorder and are either prescription or non-prescription and are used in accordance with the prescription or other instructions accompanying the medication.

In the event that either (i) or (ii) applies but the use of alcohol or drugs nevertheless gives rise to the circumstances described in (d) above, the "appropriate action" to be taken by the supervisor shall include reasonable efforts to accommodate the *Employee* by providing alternative work.

(f) For purposes of this Chapter, normal office equipment shall not be deemed to constitute dangerous machinery.

## Chapter 13

### Enforcement

#### 13.1 Frequently Asked Questions

Q. What are the consequences of disobeying this policy?

A. There is no single answer to this question. It will depend on the severity of the offence, as well as all other circumstances, but it could lead to termination or, in the case of an appointee to a board or committee, removal from the position. If an employee has obtained some improper advantage, such as a secret profit or a bribe, the City might also bring civil proceedings against the employee to recover the advantage.

Q. What do you mean by proactive and reactive enforcement?

A. One way to enforce this policy is to make sure everyone knows what their obligations are, and this is accomplished by making the policy available on a wide basis and by conducting periodic training, or through other means designed to persuade and inspire employees. This is proactive enforcement. Reactive enforcement, on the other hand, is what happens after there has been a breach of this policy and the City has been required to take some remedial action. Obviously, we would prefer to minimize reactive enforcement as much as possible.

#### 13.2 Formal Policy

(a) The enforcement of this By-law shall be both proactive and reactive.

(b) Proactive enforcement will include:

- (i) The Human Resources department will give a copy of this By-law to each new *Employee* at the time of *hire*, and the Clerk will give a copy of this By-law to every member of any advisory board or committee to which this By-law applies at the time of appointment;
- (ii) This By-law will be made available on a continuing basis to all staff through electronic means so that every staff has access to it and can read, download, or print a copy;
- (iii) The Human Resources Department will conduct periodic training for staff in the matters covered by this By-law; and,
- (iv) Communication or other initiatives designed to persuade and inspire Employees to comply with this By-law or to partake in opportunities offered by it.

(c) Failure to receive training will not be an excuse for non-compliance with this

By-law.

(d) Reactive enforcement will include:

- (i) All managers and supervisors are under a positive obligation to enforce this By-law and deal with breaches of the By-law by their subordinates that have come to their attention as appropriate in the circumstances. Also, managers and supervisors are required to consult with the Human Resources Department as necessary to determine what kind of response would be appropriate.
- (ii) If any person, including a member of the public, wants to make a complaint that someone has breached this By-law, the allegation shall be referred to the applicable director who will take appropriate action. If the complaint concerns a director, it will be referred to the applicable General Manager, if it concerns a General Manager or Director reporting to the City Manager, it will be referred to the City Manager, and if it concerns the City Manager it will be referred to the Mayor and Council.
- (iii) If there are specific rules within the Chapters of this By-law which pertain to the enforcement of particular matters (such as the rules for investigating harassment and discrimination complaints), the specific rules shall govern.
- (iv) Subject to the requirements of any disciplinary policy of the City, enforcement may include disciplinary action up to and including dismissal.

(e) All *Employees* of the City and Members of Council shall cooperate with any investigations commenced under this By-law, and shall provide full and frank disclosure of what they know to any staff performing an investigation under this By-law. Failure to provide such cooperation shall be considered a serious breach of this By-law.

## Chapter 14

### Miscellany

#### 14.1 Frequently Asked Questions

Q. Why are you repealing so many policies?

A. The policies being repealed are old policies which have been reviewed and made part of this new By-law. We need to get rid of the old policies before we can start operating under the new ones.

Q. What do you mean by effective date?

A. This By-law comes into effect on the effective date. From that date on, this By-law is in force and the City will require all of its employees to comply with it.

#### 14.2 Formal Policy

(a) The following policies are repealed in their entirety:

HR13 (Conflict of Interest),  
AP77 (Whistle-blowing),  
HR9 (Discrimination and Harassment),  
AP53 (Integrity of Computer Systems),  
HR15 (Hiring of Relatives),  
AP62 (Internet Acceptable Use),  
HR001 (Dress),  
HR002 (Dress Down),  
AP64 (Communications).

#### (b) Transition

The policies repealed pursuant to (a) above shall nevertheless continue to apply in respect of any breaches of their terms which occurred before the effective date of this By-law. Despite the foregoing, any persons accused of a breach of any of the said policies shall be entitled to the benefit of any of applicable exceptions, defences, or relaxed requirements which have been added by this By-law.

As part of the transition in respect of the repeal of HR002 (Dress Down), the Human Resources Department will contact every *Employee* who has authorized a payroll deduction to ascertain whether the *Employee* wishes future deductions to be terminated or whether the *Employee* wishes the deductions to be applied for another cause or purpose.

#### (c) Effective Date

This By-law is effective immediately upon its passage.

Appendix 1  
Prescribed Form for Reporting Gifts

Disclosure of Gifts, Entertainment or Other Benefits Code of Conduct By-law	
Employee's Name:	
Position (at time of gift receipt):	
Description of Gift:	
Date gift received:	
Person or Group who presented the gift:	
Occasion for which the gift was given:	
Estimated value of gift (must be over \$50 to be registered):	
What does the <i>Employee</i> intend to do with gift:	
Supervisor's Decision	

Signatures:

Employee: \_\_\_\_\_

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

Supervisor: \_\_\_\_\_

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



## Appendix 2

### Harassment and Discrimination Complaint Investigation Process

#### A2.1 Procedures

##### (a) General

The successful resolution of concerns and complaints is often determined by the way in which they are handled. The existence of a process with detailed procedures and guidelines is critical to ensure that all complaints are dealt with in a consistent and fair manner which allows flexibility to accommodate different situations, circumstances and needs.

The Corporation has established a procedure to permit complaints of discrimination and harassment to be dealt with internally. All complaints so advanced will be taken seriously, and will be acted upon quickly and in a confidential manner.

Remedies may also be available under the Ontario Human Rights Code, through normal grievance procedures under any applicable collective agreement, or under the dispute resolution mechanisms of any other applicable employment agreement. Everyone is encouraged to fully examine the various options which are available. The pursuit of a complaint under the internal complaint mechanism does not preclude an *Employee* from filing a complaint with the Ontario Human Rights Commission or pursuing any other available forms of relief. It should be noted that time limits apply to complaints which are taken to the Ontario Human Rights Commission, and persons contemplating making such complaints are urged to contact the Commission immediately so that these time limits are not missed.

In all cases, it is important that complaints should be advanced as soon as possible. Complainants are advised to make and retain for future use written notes of the events upon which the complaint is based. Such notes should include times, dates, locations, and names of any witnesses. Any relevant documents should be collected and retained.

##### (b) Dealing with a complaint

There are two ways an *Employee* may choose to deal internally with a complaint under this policy:

#### 1. Self-Help:

A harasser or a person practicing discrimination may not realize that his or her

behaviour is unwelcome and offensive. In many instances, simply explaining the problem and asking the offender to stop will resolve matters satisfactorily.

The Corporation recognizes that in some situations it may be difficult or inappropriate to deal directly with the offender, or the individual may have told the offender to stop but the offensive behaviour continues. In such cases, the *Employee* should take action as outlined below.

## 2. Making a formal Complaint:

*Employees* of the Corporation who experience discrimination or harassment and have chosen not to deal directly with the offender, either because such attempts were unsuccessful in the past or because they feel that the direct approach is inappropriate for them, may choose to have the matter dealt with on a formal or informal basis with the assistance of others.

The Director of Human Resources will designate a contact person within the Department of Human Resources to whom responsibility will be delegated for the receipt of such complaints. Persons who wish to make a formal or informal complaint should do so through the designated contact person within the Human Resources Department. Such complaints may be registered either personally, through a union or association representative, or through a solicitor or agent.

Such contact will have three possible outcomes:

- (a) The complainant may decide, after discussing the matter with the contact person, that no discrimination or harassment occurred. If this happens, no further action will be taken and no record will be made in any file;
  - (b) The complainant may have evidence of harassment or discrimination, but may not wish to lay a formal complaint. If this happens:
    - (i) If the complainant agrees, the contact person may choose to take no further action with respect to the allegations where this would be appropriate in the circumstances;
    - (ii) The contact person and the complainant may agree on an informal means of resolving the issue which may include informal meetings or other communications with the person against whom the allegations are made;
- or,
- (iii) The contact person may recommend to the Director of Human Resources and the applicable department head that an investigation should nevertheless occur as though a formal

complaint was in fact laid, even where that recommendation is contrary to the wishes of the complainant. The Director of Human Resources and the applicable General Manager shall jointly consider this recommendation in consultation with the Legal Department.

- (a) The complainant may decide to lay a formal complaint. A formal complaint must be in writing and may be in the format set forth in Schedule "A" to this policy. The complaint must contain a concise statement of the material facts on which the claim of harassment is based, the identity of the person or persons against whom the allegations are made, the identity of any witnesses, copies of any relevant documents, and a description of the steps (if any) which the complainant may already have taken to attempt to resolve the matter.

All formal complaints shall be investigated and, where appropriate, disciplinary action will be taken.

Copies of all formal complaints will be given without delay to the person against whom the complaint is laid and the complainant (and to their respective agents or solicitors), the Director of Human Resources, the applicable General Manager, the City Solicitor, and to the Senior Management Team through the Director of Human Resources.

The investigation will be conducted by a member of the Human Resources Department designated by the Director of Human Resources, an optional further person designated by the applicable General Manager, and a solicitor from the Corporation's legal department. Pursuant to the stated guidelines of the Ontario Human Rights Commission for internal dispute resolution mechanisms, the investigation shall not be conducted by the Director of the Human Resources Department or by any person who exercises supervisory responsibilities over the complainant or the person against whom allegations have been made.

The findings of the investigation shall be compiled in the form of a written report to the Director of Human Resources, who shall receive the report and recommend the appropriate disciplinary action (if such action is warranted by the results of the report) to the applicable General Manager. The complainant shall be advised of the outcome of the investigation and any disciplinary action taken. In the event that the complainant is not satisfied with the disciplinary action taken by the Corporation, the complainant shall be reminded that, subject to the possible expiration of time limits, there is a continuing right to file a complaint with the Ontario Human Rights Commission.

The findings of the investigation may also include other relevant recommendations of the investigators in relation to the matter in question. For instance, the investigators may recommend certain administrative changes to correct deficiencies which were noted during the investigation. In addition, the investigators

may recommend in an appropriate case that either the Complainant or the person under investigation be recompensed for their out of pocket expenses in connection with the matter. Any such compensation would be considered as a discretionary matter on a case by case basis and it is not the purpose of this policy to create any legal entitlement to such compensation, or to create any legal obligation to make any such payment.

Any persons being interviewed during the course of an investigation shall be entitled to have legal counsel or a representative of his or her union or association present at their expense during any questioning. The person against whom allegations have been made shall be specifically warned prior to any questioning in the formal investigation that serious allegations have been brought, that his or her answers will be recorded and may be used against him or her, and that he or she is entitled to have a solicitor or union or association representative present at his or her expense during any questioning.

Complaint Form  
Code of Conduct By-law  
Chapter 7

Name of Complainant: \_\_\_\_\_

Nature of Complaint (i.e. Discrimination or Harassment):

\_\_\_\_\_

Person Against Whom Complaint Laid:

\_\_\_\_\_

Particulars of Complaint: (Set out all facts on which complaint is based including dates and times, the identify of any witnesses and a description of the steps, if any, already taken to attempt to resolve the matter. Attach additional pages if necessary. Also, attach any supporting documents or evidence which may be of assistance in the investigation)

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I request that a formal investigation in respect of the foregoing complaint be undertaken pursuant to Chapter 7 of the City of Brantford Code of Conduct. I understand and acknowledge that this investigation will involve the collection of personal information about me, and I consent to the collection of this information.

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

NOTE: Personal information on this form is collected pursuant to the Municipal Act and The City of Brantford Code of Conduct By-law and will be used to follow up on complaints made under the Code of Conduct By-law. Questions about the collection of this information should be directed to the Director of Human Resources, 1 Market Square, Lower Level, Brantford, ON N3T 6C8, (519) 759-4150 ext. 2275.