

**The Corporation of The City Of North Bay**

**By-Law No. 2019-16**

**Being a By-Law to Adopt The Code of Conduct for  
Members of Council of The Corporation of The City of North Bay  
and Certain Local Boards**

Whereas Section 223.2 (1) of the Municipal Act, authorizes municipalities to establish codes of conduct for members of council of the municipality and of local boards of the municipality;

And Whereas Council passed Resolution 2019-70 at its Meeting held on Tuesday, February 26, 2019, authorizing that The Code of Conduct for Members of Council of The Corporation of the City of North Bay and Certain Local Boards be adopted.

Now Therefore the Council of the Corporation of the City of North Bay Hereby Enacts as Follows:

1. The Code of Conduct for Members of Council of The Corporation of the City of North Bay and Certain Local Boards attached as Schedule "A" hereto is hereby adopted.
2. This By-Law shall take force and effect upon being passed.

Read a First Time in Open Council This 26<sup>th</sup> day of February, 2019.

Read a Second Time in Open Council This 26<sup>th</sup> day of February, 2019.

Read a Third Time in Open Council and Enacted and Passed This 26<sup>th</sup> day of February, 2019.

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Mayor Allan McDonald  
SIRE\C01\BY-LAW 2019-16\CODE OF CONDUCT

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Deputy City Clerk Judy Bechard

**SCHEDULE "A" TO THE CORPORATION OF THE CITY OF  
NORTH BAY BY-LAW NO. 2019-16**

**CODE OF CONDUCT FOR  
MEMBERS OF COUNCIL OF THE CORPORATION OF THE CITY OF  
NORTH BAY AND CERTAIN LOCAL BOARDS**

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## **ARTICLE I - LEGISLATIVE AUTHORITY**

The amendments to the *Municipal Act, 2001*, S.O. 2001, as amended, introduced under Bill 68 included subsection 223.2(1) of that Act that requires municipalities to establish a code of conduct for members of the council of the municipality and its local boards.

## **ARTICLE II -PRINCIPLES**

Improving the quality of municipal administration and governance can be best achieved by encouraging high standards of conduct on the part of all municipal officials. In particular, the public is entitled to expect the highest standards of conduct from the members that they elect to local government. In turn, adherence to these standards will protect and maintain the City's reputation and integrity.

The principles that underline this Code of Conduct are as follows:

- (a) Members must serve and be seen to serve their constituents in a conscientious and diligent manner;
- (b) Members must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest;
- (c) Members are expected to perform their duties in office and arrange their private affairs, in a manner that promotes public confidence and will bear close public scrutiny;
- (d) Members must recognize and act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable to the public as possible; and
- (e) Members shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the laws and policies adopted by the Council.

## **ARTICLE III - APPLICATION OF THIS CODE OF CONDUCT**

This Code of Conduct applies to each Member.

## **ARTICLE IV - DEFINITIONS**

In this Code of Conduct:

- (a) "child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (b) "City" means The Corporation of the City of North Bay;
- (c) "City Clerk" means the City Clerk of the City;
- (d) "Code of Conduct" means the City of North Bay Code of Conduct established pursuant to the authority of section 223.2 of the *Municipal Act, 2001*;

- (e) "complaint" means a written request to investigate the conduct of any Member for a possible violation of the Code of Conduct filed in accordance with Article XIV (Non-Compliance With This Code of Conduct – Administration & Sanctions);
- (f) "confidential information" includes:
  - (i) any information in the possession of, or received in confidence by, the City that the City is prohibited from disclosing, or has decided to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act*, or any other law;
  - (ii) information of a corporate, commercial, scientific or technical nature received in confidence from third parties;
  - (iii) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection Act*;
  - (iv) information that is subject to solicitor-client privilege;
  - (v) information that is subject to litigation privilege;
  - (vi) information that concerns any confidential matters pertaining to matters related to an identifiable individual, personal, labour relations, litigation, property acquisition, the security of the property of the City or a local board;
  - (vii) a matter, the substance of a matter, and information pertaining to a matter, that has been included in an agenda or that have been debated or discussed at a meeting of Council, a Standing Committee, or a local boards where the meeting is closed to the public
  - (viii) any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order;
- (g) "Council" means the Council of The Corporation of the City of North Bay;
- (h) "harassment" includes:
  - a. any comment, conduct, action or gesture that is unwelcome or that ought reasonably be known to be unwelcome that could affect a person's dignity or a person's psychological or physical health; and
  - (ii) sexual harassment being a form of harassment involving comment or conduct of a sexual nature that is known, or ought to be known, to be unwelcome where:
    - (1) submission to such comment/conduct is made either explicitly or implicitly regarding a term or condition of an individual's employment; or
    - (2) submission to or rejection of such comment/conduct by an individual is used as the basis for employment decisions affecting such individual's work; or

- (3) such comment/conduct creates an intimidating, hostile or offensive working environment.

Sexual harassment can include, but is not limited to, sexual assault or threats of a sexual nature; unwelcome sexual advances, invitations or requests, demands for sexual favours, innuendos, taunting or degrading words about a person's body, appearance or gender/sexual orientation; leering; sexually derogatory or offensive remarks about an individual; inquiries or comments about a person's sex life, and displays of degrading or offensive sexual material including sexual jokes.

- (i) "information" means any record, document, data, material, correspondence or evidence however recorded, whether oral or in printed form, on film, by electronic means or otherwise;
- (i) "Integrity Commissioner" means the person from time to time appointed by Council pursuant to section 223.3 of the Municipal Act, 2001;
- (j) "lobbyist" means a person that communicates with a Member for the purpose of influencing or attempting to influence the Member respecting an issue that is or may be pending before Council or one of its Standing Committees.
- (k) "local board" means a school board, board of directors of a children's aid society, committee of adjustment, conservation authority, court of revision, land division committee, municipal service board, public library board, board of management of an improvement area, board of health, police services board, planning board, district social services administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a long-term care home, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or purposes, including school purposes, of one or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board or a local roads board;
- (l) "Member" means each member of the Council and each member of local boards of the City;
- (m) "*Municipal Act, 2001*" means *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
- (n) "*Municipal Freedom of Information and Protection of Privacy Act*" means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56, as amended;

- (o) "parent" means a person who has demonstrated a settled intention to treat a child as a member of his or her family;
- (p) "person" includes a corporation, partnership, association and any other entity as the context allows, and expressly includes a Member as well as Council;
- (q) "personal information" includes recorded information about an identifiable individual;
- (r) "Procedural By-Law" means the City's Procedural By-law No. 2017-01, as amended;
- (s) "spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (t) "Staff" means the municipal administration being the officers, staff and volunteers of the City and the City's local boards;
- (u) "Standing Committee" means each standing committee as from time to time established by the City's Procedural By-law.

#### **ARTICLE V - COMPLIANCE WITH DECLARATION OF OFFICE**

Each Member must act in accordance with his or her declaration of office or terms of appointment, as applicable.

#### **ARTICLE VI- ADHERENCE TO COUNCIL POLICIES AND PROCEDURES**

Each Member shall observe and comply with every provision of this Code of Conduct as well with all other policies and procedures adopted or established by Council affecting the Member.

#### **ARTICLE VII - CONDUCT AT MEETINGS**

Each Member must conduct himself or herself properly and in a civil manner at Council, committee, and other meetings, and in accordance with the provisions of the City's Procedural By-Law, this Code of Conduct and other applicable law.

#### **ARTICLE VIII - CODUCT RESPECTING OTHERS**

Each Member has the duty and responsibility to treat members of the public, each other Member and Staff appropriately and without abuse, bullying or intimidation, and to ensure that the City's work environment is free from discrimination and Harassment. Without limitation, a Member must not:

- (a) use indecent, abusive or insulting words or expressions toward any other Member, any member of Staff or any member of the public;
- (b) speak in a manner that is discriminatory to any individual, based on that person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability;

- (c) engage in any Harassment of any other Member, any member of Staff or any member of the public.

#### **ARTICLE IX - CONDUCT RESPECTING STAFF**

- 9.1 Under the direction of the senior City administration, and in accordance with the decisions of Council, Staff are required to serve the municipal corporation as a whole. Each Member must be respectful of the role of Staff to provide advice based on political neutrality and objectivity and without undue influence from any Member.
- 9.2 No Member shall maliciously or falsely injure or impugn the professional or ethical reputation of any Member of Staff.
- 9.3 Each Member shall show respect for Staff, and for their professional capacities and responsibilities.
- 9.4 No Member shall compel any Member of Staff to engage in partisan political activities or subject any Member of Staff to threat or discrimination for refusing to engage in any such activity.
- 9.5 No Member may use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any Staff or interfere with that person's duties, including the duty to disclose improper activity.

#### **ARTICLE X - GIFTS AND BENEFITS**

- 10.1 For the purposes of this Code of Conduct, a gift or benefit provided, with the Member's knowledge, to the Member's spouse, child or parent, that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift or benefit to that Member.
- 10.2 No Member may accept a fee, advance, gift or personal benefit that is related directly or indirectly to the performance of his or her duties of office, unless permitted under one or more of the following exceptions:
  - (a) compensation authorized by law;
  - (b) a gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
  - (c) a political contribution otherwise authorized and reported as required by law, in the case of a Member running for office;
  - (d) services provided without compensation by a person volunteering his or her time;
  - (e) as suitable memento of a function honouring the Member;
  - (f) food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government or board or political subdivision of any of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or event where the member is speaking or attending in an official capacity.

- (g) food and beverage consumed at a banquet, reception or other similar event, if:
  - (i) attendance by the Member is for a legitimate City purpose;
  - (ii) the person extending the invitation, or a representative of the organization holding the event, is in attendance; and
  - (iii) the value is reasonable;
- (h) communications to the office of a Member, including subscriptions to newspapers and periodicals; and
- (i) a sponsorship or donation for a community event organized and run by a Member, or a third party on behalf of a Member, subject to the limitations set out in any applicable City policy or this Code of Conduct.

10.3 Except for exception 10.2(c) (political contributions allowable by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer.

10.4 In the case of any of the exceptions 10.2 (b), (e), (f), (h) and (i), if the value of the gift or benefit exceeds THREE HUNDRED DOLLARS (\$300.00), or if the total value of the gifts or benefits received from any one source during the course of a calendar year exceeds THREE HUNDRED DOLLARS (\$300.00) the Member shall file, within thirty (30) days of receipt of the gift or benefit, or, of reaching the annual limit, a disclosure statement with the City Clerk. The disclosure statement must set out:

- (a) the nature of every gift or benefit received;
- (b) its source and date of receipt;
- (c) the circumstances under which it was given and received;
- (d) its estimated value;
- (e) what the recipient intends to do with any gift; and
- (f) whether any gift will at some point be provided to the City.

10.5 The City Clerk will cause each disclosure statement to be published as part of an agenda for an open meeting of Council.

10.6 Council will decide whether to refer a disclosure statement to the Integrity Commissioner.

10.7 If Council decides to refer a disclosure statement to the Integrity Commissioner, the Integrity Commissioner will examine it to ascertain whether the receipt of the gift or benefit might, in his or her opinion, constitute a contravention of this Code of Conduct or create a conflict between a private interest and the public duty or responsibilities of the Member. In the event that the Integrity Commissioner makes such a determination, he or she will call upon the Member to justify receipt of the gift or benefit.

- 10.8 If the Integrity Commissioner determines that the receipt of any gift or benefit was inappropriate, he or she may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit to the City the value of any gift or benefit already consumed.
- 10.9 Except in the case of exceptions 10.2 (a), (c), (f) and (i), no Member may accept a gift or benefit worth in excess of FIVE HUNDRED DOLLARS (\$500.00), or gifts or benefits from one source during a calendar year which together are worth in excess of FIVE HUNDRED DOLLARS (\$500.00).

#### **ARTICLE XI - CONFIDENTIAL INFORMATION**

- 11.1 No member shall disclose, release or publish by any means to any person or to the public any confidential information, whether or not acquired by virtue of his or her office, except when required or authorized by Council, or otherwise by law to do so.
- 11.2 No member may use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of his or her spouse, child, parent or any other person.
- 11.3 No member may obtain access, or attempt to gain access, to confidential information except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by Council or by law.

#### **ARTICLE XII - USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES**

- 12.1 No member may use, or permit the use of, City land, facilities, equipment, supplies, services, staff or other resources, including any City-owned information, website, City transportation delivery service or funds allocated for member's expenses, for any purpose or activity other than the lawful business of the City.
- 12.2 No member may seek or acquire any personal financial gain from the use or sale of confidential information, or of any City-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copyrighted, of which property remains exclusively that of the City.
- 12.3 Incidental and occasional personal use, non-commercial use of e-mail/internet and personal communication device (ie., Blackberry, Iphone) is permitted.

#### **ARTICLE XIII - NO IMPROPER USE OF INFLUENCE**

13.1 No member shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for City purposes. Without limitation, no Member may:

- (a) use his or her office or position of influence or attempt to influence the decision of any other person, for the Member's private advantage or that of the Member's parent, child, spouse, Staff, friend or associate, business or otherwise; or
- (b) attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties; or
- (c) hold out the prospect or promise of future advantage through the Member's supposed influence within Council, in return for any action or inaction.

13.2 For the purposes of subsection 13.1, "private advantage" does not include:

- (a) a matter that is of general application;
- (b) a matter that affects a Member, his or her parent, spouse, child, Staff, friends or associates, business or otherwise as one of a broad class of persons;
- (c) a matter that concerns the remuneration or benefits of a Member, or
- (d) a request by a Member that Council grant a lawful exemption.

#### **ARTICLE XIV - NON-COMPLIANCE WITH THIS CODE OF CONDUCT – ADMINISTRATION & SANCTIONS**

14.1 A person who believes that a member has contravened any provision of this Code of Conduct may give to the Integrity Commissioner the person's complaint which must be in writing and must set out the particulars of the alleged contravention.

14.2 The Integrity Commissioner may refuse to investigate a complaint if, in the opinion of the Integrity Commissioner, a complaint is frivolous, vexatious or an abuse of process. The Integrity Commissioner will report to Council respecting each complaint given to the Integrity Commissioner. The Integrity Commissioner and his or her delegates have the powers and subject to the duties prescribed by sections 223.3 to 228.8, inclusive of the *Municipal Act, 2001* and by other applicable law.

14.3 Notwithstanding anything in this Code of Conduct,

- (a) If the Integrity Commissioner has not completed an inquiry before nomination day or for a regular election, the Integrity Commissioner must terminate the inquiry on that day. If an inquiry is terminated, the Integrity Commissioner must not commence another inquiry in respect of the matter unless, within six (6) weeks after voting day in a regular election, the

person who made the complaint or the Member whose conduct is the subject matter of the complaint makes a written request to the Integrity Commissioner that the inquiry be commenced, provided that no inquiry respecting a former Member may be commenced.

- (b) Between nomination day and voting day in a regular municipal election, no person may submit a complaint respecting an alleged contravention of the Code of Conduct, the Integrity Commissioner must not report to the Council about whether a member has contravened the Code of Conduct and the Council may not consider whether to impose penalties.

14.4 Upon receipt of a report from the Integrity Commissioner that, in the Integrity Commissioner's opinion, a Member has contravened this Code of Conduct, Council will decide whether to impose either of the penalties prescribed by subsection 223.4(5) of the Municipal Act, 2001 as follows:

- (a) a reprimand; or
- (b) suspension of the remuneration paid to the Member in respect of his or her services as a member for a period of up to ninety (90) days.

14.5 The Integrity Commissioner may also recommend that Council take one or more of the following actions:

- (a) removal from membership on a committee or local board;
- (b) removal as chair or as vice-chair of a committee or local board;
- (c) repayment or reimbursement of monies received;
- (d) return of property or reimbursement of its value;
- (e) request a public apology to Council, the complainant, or both; or
- (f) any other or additional action deemed by Council to be appropriate, and which is within its power to take.

#### **ARTICLE XV - NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE OF CONDUCT**

Each member must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it and must co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat of reprisal against a complainant or any other person for lodging a complaint or for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner, or any other City official involved in applying or furthering the objectives or requirements of this Code of Conduct, in the carrying out of such responsibilities, or pursuing such objectives.

**ARTICLE XVI - INCONSISTENCIES & OTHER STANDARDS  
RESPECTING THE CODE OF CONDUCT**

- 16.1 In the case of any inconsistency between the Code of Conduct and a Federal or Provincial statute or regulation, the statute or regulation prevails to the extent of the inconsistency.
- 16.2 In the case of any inconsistency between this Code of Conduct and any by-law of the City, the provision that establishes the stricter standard applies to the extent of the inconsistency.
- 16.3 This Code of Conduct does not limit the role of the Mayor to provide leadership to the Council including respecting the principles on which this Code of Conduct is based.