

CITY OF WHITEHORSE

COUNCIL POLICY

POLICY: **EMPLOYEE CODE OF CONDUCT**

AUTHORITY: Council Resolution # 97-11-07 dated May 26, 1997

EMPLOYEE CODE OF CONDUCT POLICY

POLICY STATEMENT

Local Government is an open, accessible and accountable form of government. To enhance, and in some cases recapture, the relationship of public trust and mutual respect that has evolved between government and the public requires high standards of ethical conduct by municipal employees.

PURPOSE

1. Provide a universal understanding of the fundamental rights, privileges and obligations of municipal employees for their own protection.
2. Protect the public interest. The practical application of the Code's provisions to diverse situations may reveal gaps, ambiguities and inconsistencies in the Code. In these circumstances, the protection of the public interest, as it is consistent with the concept of "just cause", is to be taken as the true underlying intent of the Code.
3. Promote high ethical standards among municipal employees.
4. Provide a means for municipal employees to obtain authorisation for some contemplated conduct in circumstances where they are uncertain as to the ethical appropriateness of that conduct.
5. Set out the means of correcting unethical conduct.
6. Municipal employees hold positions of privilege. Therefore, they must discharge their duties in a manner that recognises a fundamental commitment to the well being of the community, their fellow employees and regard for the integrity of the Corporation.
 - (1) Where there is any conflict between the policies and procedures adopted by the City of Whitehorse and the policies and procedures set forth in a collective agreement adopted by the City of Whitehorse, or policies and procedures set forth in a statute of the Territorial or Federal Government, the collective agreement or the Territorial or Federal statute shall supersede such other policies.

DEFINITIONS

7. Municipal Employee - includes all employees and officers of the City of Whitehorse as defined in all collective agreements and employment bylaws.
8. Public Comment - disclosures made in a public speech, lecture, radio or television broadcast, in the press or book form.
9. Confidential Information - while the classification of information as “confidential” is a matter of administrative discretion whether labelled as confidential or not, disclosure of information will not constitute a breach of the Code of Conduct unless that information is of an inherently confidential nature such as:
 - (1) personal data of employees or others.
 - (2) records related to internal policies and practices which if disclosed may prejudice the effective performance of a municipal operation.
 - (3) records of a financial nature reflecting information given or accumulated in confidence.
 - (4) files prepared in connection with litigation and adjudicative proceedings.
 - (5) reports of consultants, policy drafts and internal communications which, if disclosed, may prejudice the effective operation of a municipal operation or impugn the reputation of any person.
 - (6) any report prepared for Council is to be released only by Council.
 - (7) information regarding the acquisition or disposal of land.
10. Corporation - means the City of Whitehorse.
11. Just Cause - means sufficient or proper reason for discipline or discharge.

RESPONSIBILITIES

12. City Council shall:
 - (1) hear appeals on actions taken concerning employees’ ethical conduct by the City Manager, should the employee so desire to appeal.
 - (a) following the appeal, decide on the appropriate action in matters concerning employees’ ethical conduct.
13. The City Manager shall:
 - (1) make such revisions, additions or deletions to the Code of Conduct as may be justified under the concept of “just cause”.
 - (2) investigate allegations and inquiries relating to unethical conduct by employees.
 - (3) decide on the appropriate action in matters concerning employees’ ethical conduct.

- (4) ensure the administrative controls referred to in the Code of Conduct are in place.

14. The Human Resources Department shall:

- (1) fully inform newly appointed employees of the ethical standards they are expected to observe. If requested, to obtain clarification of the specific ethical standards the employee will be required to observe in a particular position.
 - (a) keep employees informed, on an ongoing basis, of the City's policy on ethical behaviour.
 - (b) prior to the making of an appointment to a position, request a disclosure of actual or potential conflicts of interest which would be brought about by that person's employment in that position. In instances of actual conflict of interest, the matter shall be referred to the City Manager for a decision on whether the applicant should be appointed to the position.

15. Employees

(1) **Integrity**

Ultimately, ethical behaviour relies on the diligence of the individual. However, since a breach of ethics impacts not only on the individual but also the Corporation, a code of conduct is the means by which the municipality acknowledges their responsibility in this area, as well as their responsibility to provide clarity to their employees on what would be considered inappropriate behaviour.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (a) Conduct in one's private life or employment activities which harms the City's reputation or renders the employee unable to perform his or her duties satisfactorily.

What moral standard an employee must adhere to will vary with the employee's relationship with other employees, the City and the public.
- (b) Unless otherwise authorised, to use or permit the use of City vehicles, equipment, materials or property for purposes other than City business.
- (c) To solicit patronage from elected municipal authorities to further his or her personal interests or the interests of others, to the extent that any other citizen could not receive.
- (d) To knowingly breach the law or any government regulation in the performance of his or her duties or to request others to do so.
- (e) To intentionally falsify any of the City's records.

(2) **Impartiality**

Every municipal employee must perform his or her duties in an impartial manner.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (a) No employee shall grant any special consideration, treatment or advantage in matters related to his or her employment to any citizen beyond that which is available to any other citizen.

(3) **Conflict of Interest**

Every municipal employee shall avoid situations in which the employee has a personal interest sufficient to influence, or appear to influence, the objective exercise of that employee's authority. When an employee is, or believes he/she may be in a position of conflict of interest with regard to the City, the employee should disclose this to their Department Manager, or in his/her absence to the Division Manager, or in his/her absence to the City Manager and refrain from exercising his/her authorities relevant to the conflict until duly authorised.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

(a) **Gifts and Benefits**

The inherent pitfall in accepting gifts and benefits from outside sources is that regardless of the intent, in most instances the person providing the gift has something to gain from the recipient. Gifts and other benefits are the most obvious means of wielding some kind of influence regardless of how innocuous the gesture may appear to be on the surface.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (i) A municipal employee must refrain from accepting gifts and benefits from firms or individuals.
- (ii) A municipal employee must not place themselves in a position where they are under an obligation to favour an individual or firm.
- (iii) There is a role for "moderate hospitality". Employees must consult with their supervisor to determine whether or not a specific gesture constitutes moderate hospitality.
- (iv) A municipal employee must not offer preferential treatment in the lease, rental, use or purchase of City facilities, equipment, or services without the prior authorisation of the City Manager.

(b) Use of Municipal Property

This section regulates the “outside” use of municipal property by an employee.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (i) An employee must not use the municipality’s property, equipment, supplies or services for activities not associated with the discharge of official duties.
- (ii) Employees shall not use the municipality’s property, equipment, supplies or services for personal gain.

(4) Outside Employment or Activities

Every municipal employee must perform his or her duties to an acceptable level.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct.

- (a) Where outside employment or activities reduce to an unacceptable level the interest or energy an employee devotes to his or her duties.
- (b) Where the outside employment or activity is performed in such a way as to give the impression, even if done unintentionally, that the employee is acting in an official municipal capacity or holding himself or herself out as representing an official City point of view.
- (c) Where an employee uses his or her position to solicit business on his or her own account during regular working hours for the City.

(5) Financial Transactions

Every municipal employee must adhere to City bylaws and policies regarding any municipal financial transaction.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (a) Where the employee is in a position where he/she could derive any direct or indirect benefits or interest from any municipal contract or business on which the employee can influence decisions.
- (b) To buy surplus municipal property where the employee can influence decisions with respect to the disposal arrangements. This restriction is not intended to prohibit any employee from surplus municipal property which is offered for sale by public tender.

Disposal of municipal property, assets or services shall be in compliance with the City purchasing bylaw or municipal policies. At no time shall this benefit any individual employee or group of employees.

(6) **Confidentiality**

Every municipal employee must hold in strict confidence all information of a confidential nature acquired in the course of his or her employment with the City.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct.

- (a) To use confidential information which is not available to the general public and to which the employee has access by reason of his/ her employment with the City to further his/her personal interests or the interests of others.
- (b) To disclose to unauthorised persons confidential information to which the employee has access by reason of his/her employment with the City.

(7) **Political Activity**

Municipal employees are to be allowed as great a measure of political rights as can be reconciled with the need to ensure the fact and appearance of impartiality in the performance of their duties with the City. The point at which an appropriate balance can be struck in any particular case depends primarily on the nature and level of the employee's responsibilities.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- (a) To use the authority or influence of his/her position with the City on behalf of a political party or candidate.
- (b) To engage during working hours in any activity for or against any candidate.
- (c) When seeking election to the City of Whitehorse municipal office, an employee shall adhere to the requirements of Section 34.1 of the Municipal Act. This article has no reflection on election to any other municipal government or First Nations Government.
- (d) A foundation of the employee/employer relationship is that the employee must show up for work and perform his/her duties to an acceptable level. Those employees elected to Territorial or Federal office would not likely be able to fulfil this obligation.

8) **Public Comment**

Every municipal employee shall display the reserve inherent in his/her position with the City when publicly expressing his/her personal opinions on matters of political controversy or on existing or proposed municipal policy or administration. This policy is not intended to restrict the legitimate public comment of spokespersons of employee associations nor the public comment of employees on matters of essentially a personal interest to the

employee as opposed to an interest related to his/her employment with the City.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct.

- (a) To express publicly the employee's personal views on matters of political controversy or on municipal policy or administration where to do so would impair the public's confidence in that employee's ability to perform his/her official duties with integrity and impartiality, or impair the ability of City Council or City Management to carry out its or their functions.
- (b) Relations with the media shall be conducted such that only factual and objective information related to policies adopted by Council shall be transmitted. Employees must refrain from putting forth speculative or subjective insights.

Note: Employees should not assume that any unethical activities not covered by the Code of Conduct are permissible.

(9) **Staff/Council Relations**

Municipal employees must recognise the distinct roles of the elected and non-elected bodies within the municipality. Simply stated, Council is responsible for developing policy and staff is responsible for its implementation. A significant yet somewhat less-defined function of staff is the role of advisors to Council. Because of the significance of this advisory function, it is important that staff avoid creating disparity by dealing with members of Council in an inequitable manner.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct.

- (a) Employees shall deal with all members of Council in an objective and impartial manner at all times.
- (b) Employees must recognise that elected officials are responsible for the establishment of policy and that employees are responsible for implementation of the directives originating from Council and conduct themselves accordingly.
- (c) Good teamwork is based on "no surprises". Municipal employees, when requested to provide information to elected officials, should endeavour to provide that same information to all members of council.
- (d) Employees have the authority to refer elected officials to their manager if they are made to feel uncomfortable with any request for information, opinion or assistance by, or on behalf of, the elected official.

PROCEDURES

16. Municipal employees are encouraged to seek clarification from the City Manager if they are uncertain as to whether an existing or contemplated action may contravene the code of conduct.
17. Complaints or inquiries concerning the ethical conduct of any municipal employee shall be made in writing to the City Manager. Complaints regarding the City Manager shall be made to the Mayor and, in this case, the Mayor shall fulfil the obligations of the investigating officer in subsequent section.
18. All complaints or inquiries will be treated as confidential.
19. A copy or summary of any written or oral complaint received is to be sent immediately to the employee complained against with a request to provide a written answer to the complaint.
20. The City Manager shall investigate:
 - (1) all complaints or inquiries concerning the ethical conduct of a municipal employee.
 - (2) on his/her own initiative, the conduct of a municipal employee where he/she determines an investigation warranted.
21. The City Manager shall summarise the findings of the investigation in written or oral form and forward and/or present to the employee complained against and the complainant his findings on the appropriate course of action to be taken.
22. Where the City Manager determines the conduct referred to him does breach the Code of Conduct, the Manager may:
 - (1) instruct the employee to divest himself/herself of the outside interest or transfer it to a trust;
 - (2) take disciplinary action in accordance with the normal progressive discipline system:
 - (a) an oral or written reprimand.
 - (b) suspension with or without pay.
 - (c) dismissal.
23. The employee against whom the complaint was directed or who was inquiring as to the appropriateness of his/her conduct, and who was found to be in contravention by the City Manager, shall have the opportunity to appeal the findings of the City Manager in accordance with the process provided in the collective agreement or employment bylaw for their employee group.

■ May 26, 1997