

TOWN OF DRAYTON VALLEY

REQUEST FOR DECISION

DRAYTON VALLEY



SUBJECT:	Direct Control One (DC-1) Commercial, Farmers' Market Bylaw 2021/06/D Presented for First Reading
MEETING:	August 18, 2021 Regular Meeting of Council
PRESENTED BY:	Lowani Mubanga Planning and Development Officer

1. PROPOSAL AND BACKGROUND:

Administration has received an application from the Drayton Valley and District Agricultural Society (hereafter referred to as the Applicant) to utilize the parcel at 5015 Industrial Road as a permanent year-round location for the Drayton Valley Evergreen Farmers' Market (**See Attachment 1- Site Location and Zoning Map**).

Administration recognizes the several benefits that Farmers' Markets bring to the community and does not intend to hinder the efforts of the applicant, Drayton Valley Ag Society to secure a permanent location for its market. At the same time, however, Administration must ensure that possible negative impacts to surrounding landowners from this use, are mitigated as much as reasonably possible. Due to the unique challenges the proposed Farmers' Market could create for the general area, a possible Direct Control (DC) district was discussed at the May 25 Governance and Priorities Committee (G&P) meeting.

The current location for the Farmers' Market, is the Life Church parking lot at 5115 50 Avenue on Wednesdays during the hours of 4:00-7:00pm from May-October 2021 and patrons use the adjacent Eldorado Elementary School parking lot for parking. The Farmers' Market is currently held in this location on Wednesdays during the hours of 4:00-7:00pm from May-October and during the same hours at the MacKenzie Conference Centre from September to December. Although it is typical for most other Farmers' Markets to do the same, Administration recognizes the logistical challenges the Applicant contends with in setting up, managing the activities of the market, and cleaning up at one of these two locations each week.

The Applicant intends to host the Farmers' Market at the subject parcel each Wednesday of the week from 1:00 pm-8:00 pm, May to September. The Applicant also wishes to test the off-season by hosting a market from 8:00am-6:00pm once per month on Wednesdays or Saturdays from October to May and if demand dictates, these Saturday markets could be held weekly on either day of the off-season.

Since the May 25 G&P meeting, the Applicant has confirmed that weekly Christmas-season markets from the second week in October until mid-December will remain to be held at the Mackenzie Conference Centre. The Applicant also confirmed that the proposed location is intended to host smaller markets while larger markets will be hosted at locations that can accommodate them.

Municipal Development Plan 2012/27/D

The subject parcel is designated as Commercial/Light Industrial in Map 4-Generalized Present and Future Land Uses of Municipal Development Plan 2012/27/D (**see Attachment 3- Municipal Development Plan Map 4**). The proposed Farmers' Market use complies with the policies of Section 2.8 (Commercial and Light Industrial Areas) of the Plan.

Site Inspection

The subject property, formerly occupied by Pembina River Nursery and Garden Centre, consists of an L-shaped building that includes at-grade entrances that facilitate wheelchair access and a fenced rear yard that includes a gated entrance that faces Industrial Road towards the front of the parcel and second gated entrance at the rear of the parcel that faces the lane at the rear of the parcel (**see Attachment 4- Site Photos**).

The building on the parcel consists of two parts; an original east-west oriented portion (which according to the site plan was completed in 1993) and a front north-south oriented addition that faces Industrial Road completed in 2008. According to a previous 2015 aerial photo, the parcel included a greenhouse, numerous smaller outbuildings located behind the building, a shipping container located at the west side of the building and several trees/shrubs that were likely potted and offered for sale along the rear fence line facing the lane. According to the same aerial photo, parking for the former nursery/garden centre was offered at the front of the building within the Town's right-of-way part of Industrial Road and at the east side of the building (**see Attachment 5- 2015 Aerial Photo**).

Land Use Bylaw 2020/12/D

The subject property is in the Commercial, General (C-GEN) district of Land Use Bylaw 2020/12/D.

Farmers' Market is defined in Land Use Bylaw 2020/12/D, as

"a use where individual vendors provide goods for sale directly to the public. Vendors may change on a frequent or seasonal basis and goods may be sold both inside and outside of the building. Goods being sold are primarily fresh food products, finished consumer goods, produce, handcrafted articles, antiques or second-hand goods".

Due to the unique nature of a Farmers' Market that is unlike any other defined land use in the Glossary (Section 6) of the Land Use Bylaw, Section 5.4.f requires a parcel to be re-zoned to a Direct Control (DC) district prior to it being used as a Farmers' Market. Administration, therefore, presents the proposed Direct Control, One (DC-1) district, as Bylaw 2021/06/D to facilitate the permanent location for the Farmers' Market at the subject property (**See Attachment 6-Draft Bylaw 2021/06/D**). The provisions of this proposed district are discussed separately below.

Development Authority

For the purposes of efficiency, Administration recommends the decision authority for Permitted Use Development Permit applications and Variances (subject to the limits prescribed in Table 3- Public Consultation Requirements of the Land Use Bylaw) in this district is delegated to a Development Officer or Senior Planner. Therefore, any time the Applicant or a future owner of the subject property applies for a Development Permit in this district (unless the proposed use is listed as Discretionary or consists of a Variance of more than 30%), administration may process the application without a meeting before the Municipal Planning Commission (MPC).

Permitted and Discretionary Uses

Consistent with the main purpose of this Bylaw, Farmers' Market is listed as a Permitted Use in the proposed DC-1 district. However, the subject property could always change ownership in the future with a new owner no longer wishing to utilize the property as a Farmers' Market. Therefore, the proposed DC-1 district includes the Permitted and Discretionary Uses of the current Commercial, General (C-GEN) district so a future owner in this scenario could convert the subject property back to a commercial use that is currently permitted without the need to re-zone the property a second time.

Administration has drafted the proposed bylaw to list “all uses in the Commercial, General (C-GEN) land use district” in addition to Farmers’ Market under Permitted Uses and “all uses in the Commercial, General (C-GEN) land use district” under Discretionary Uses in the proposed DC-1 district. However, Administration has opted to copy the list of Permitted and Discretionary Uses in the C-GEN district to the proposed DC-1 district to reduce the number of pages that one needs to refer to when reviewing Land Use Bylaw 2020/12/D.

Parcel Size

The minimum required dimensions for the subject parcel in the DC-1 district are those that exist.

Setbacks

Other than permitting a Farmers’ Market on the subject parcel that includes site specific regulations for this use, the proposed DC-1 district is identical to the current C-GEN district. Therefore, the front, side and rear yard setbacks for the proposed district are carried over from the current C-GEN land use district.

Administration notes the existing building on the parcel is located 0m from the front property line. Town Council approved Development Permit DV06-051 with Variance for the front yard setback of this part of the building on April 5, 2006. The variance that was approved applies to front portion of the building. The minimum required 8.0 metre front yard setback.

The minimum required side yard setback is 3.0 meters. Administration recognized the shipping container shown in the 2015 aerial photo of the property was present at the time of the site inspection. Administration is willing to recognize this shipping container as legal non-conforming, meaning that it can remain in its current location until it is re-located or removed from the parcel completely. If the shipping container is removed or re-located, it cannot be moved back to its current location and no additional shipping containers are permitted without amendment to the proposed DC district and issuance of a Development Permit.

The rear yard setback, identical to the current C-GEN district of Land Use Bylaw 2020/12/D, is 5.0 meters. In the context of a commercial property, the purpose of a rear yard setback is to ensure sufficient space between the building, commercial display/storage area, etc. and the adjacent lane. Administration understands the Applicant may wish to construct an addition at the rear of the existing building in the location of the previously existing greenhouse. Based on the 2015 aerial photo and available mapping information, a future addition in the location of the previously existing greenhouse would appear to comply with the 5.0 metre rear yard setback requirement.

Maximum Number of Vendors

When the Applicant initially discussed the Farmers’ Market with Administration, it was indicated that a maximum of 45 vendors could be accommodated at the subject property. The Applicant has since reduced this number to 30.

The number of required parking stalls for the proposed Farmers’ Market is a function of the number of vendors; therefore, the higher number of maximum vendors at the Farmers’ Market, the higher the number of required parking spaces and vice-versa. Administration recommends setting the maximum number of vendors to 30 for the time being and If the Applicant wishes to increase the number of vendors, an amendment to the proposed DC district can be considered.

Required Parking Spaces

The Guide to Starting a Farmers' Market, published by Alberta Agriculture and Forestry, most recently updated in 2018 states, "*the rule of thumb is two to three stalls per vendor*" (Page 10) **(See Attachment 9- Excerpt from Guide to Starting a Farmers' Market)**.

Administration used a ratio of 2 stalls per vendor when calculating the parking requirements of the proposed district. Based on a total maximum of 30 vendors, a total of 60 stalls at minimum are required for a Farmers' Market in the proposed DC-1 district.

Bicycle parking spaces are based on the number of parking stalls specifically provided on the subject parcel, subject to a minimum of four spaces in accordance with Section 3.44 of Land Use Bylaw 2020/12/D.

Other than the number of parking spaces, the other Parking related provisions of Land Use Bylaw 2020/12/D (Sections 3.37-3.45) apply as part of the DC-1 district. The Applicant's site plan submitted for this bylaw indicates a total of 22 on-site parking spaces. Six of these parking spaces are within the Town's right-of-way for Industrial Road. After accounting for the 22 parking stalls to be provided on-site, a total of 38 required parking spaces would need to be secured through communal parking agreements with the neighboring and surrounding landowners within the vicinity of the subject parcel.

Communal Parking Agreements

The deficient number of parking spaces may be provided entirely on a single parcel or any combination among numerous parcels. While there is no stated distance between the subject parcel and the parcel(s) that provide the remaining required parking spaces, they do need to be within reasonable proximity of each other.

While Administration does not involve itself with matters between private landowners, it is recognized that opportunity for communal parking arrangements may be available at several nearby properties. If any of the deficient parking spaces are provided at the parcels on the opposite (north) side of Industrial Road, Administration recommends that a signalized pedestrian crosswalk is installed.

The requirement for one or more communal parking agreements between the Applicant and adjacent/surrounding landowner(s) will be implemented as a condition of an eventual Development Permit, should Bylaw 2021/06/D for the proposed DC-1 district be passed.

Similar to implementation of the communal parking agreement(s) discussed above, any required pedestrian crosswalk would be implemented through a Development Agreement that may be required as a condition of a Development Permit.

Days and hours of Operation

Days that specifically apply to a Farmers' Market operated at the subject parcel are those that have been stated by the applicant:

- Wednesday and Saturday (applies to Farmers' Market only)
 - I. If the Farmers' Market is to be held on days other than those stated above, the host of the Farmers' Market shall provide 3 weeks' notice to surrounding landowners notifying them of the alternative days.
- Hours of operation will typically be 1:00 pm-8:00 pm on Wednesday every week from May to September and monthly on Wednesdays or Saturdays 8:00 am-6:00 pm from October to May. These Hours may vary and as such, the host of the Farmers' Market shall provide 3 weeks' notice to surrounding landowners notifying them of the alternative hours.

Administration notes these specific days and hours for the Farmers' Market may alleviate some concerns that adjacent/surrounding landowners may have with providing any number of deficient parking spaces on their site, as the hours for the Farmers' Market are mostly outside a typical business day.

As the Applicant also wishes to utilize the building for other events during non-Farmers' Market times (i.e. firearms training, general safety training, first-aid courses, non-profit community group meetings, birthday party bookings, obedience classes, etc.) the normal parking requirements of the Land Use Bylaw would apply. Administration confirms the 22 provided on-site parking stalls complies with the parking requirements of the Land Use Bylaw for any of these intended uses.

Landscaping

Landscaping is an important component for beautifying areas of the Town and promoting sustainable, aesthetically pleasing re-development. As the proposed Farmers' Market is a change of use for the subject parcel, it is subject to the requirements of Land Use Bylaw 2020/12/D. Section 3.19- Table 5 (Tree Planting Minimums) of the Land Use Bylaw requires a minimum of one tree per 400 square meters of gross parcel area. Based on an area of 1,633.99 square meters, this ratio equates to a minimum of four trees for the subject parcel.

Administration recognizes the difficulties with digging holes to plant trees on the parcel, due to the amount of asphalt. However, Administration accommodates these challenges by clarifying the trees may be provided in planter boxes in the regulations of the proposed DC-1 district.

For non-residential and multi-residential parcels, Section 3.18 of the Land Use Bylaw requires a minimum 1.8-meter-wide landscaped buffer along each public road right-of-way. While Administration respects that (except for two areas), the south side of Industrial Road between 50 Street and 52 Street consists of a limited landscaped buffer, recently adopted Land Use Bylaw 2020/12/D is an instrument that can be utilized by the Town to implement gradual and progressive improvement over time as re-development occurs in this area. Therefore, trees planted as part of the proposed use should generally face the parcel's frontage along Industrial Road. Administration identifies a small area for these plantings between parking stall 20 and parking stalls 14 through 16 along the front lot line of the subject parcel (**see Attachment 2- Site Plan**). Due to their broad base that may obstruct walkways and parking stalls, Section 3.19.d of the Land Use Bylaw prohibits evergreen trees planted in these areas. However, numerous types of deciduous plantings that strike a balance of providing visual amenity, not interfering with parking spaces and, provide for adequate sightlines are possible within this area.

If the Applicant is unable to comply with landscaping requirements of the proposed DC-1 district, Administration has included a wording which allows for alternative landscaping provisions at the direction of a qualified landscaping professional.

Additional Requirements

The additional requirements of the Land Use Bylaw regarding storage provision of garbage receptacles and so on apply to the subject parcel, whether it is used as a Farmers' Market or any of the other intended uses. Provision of waste receptacles on the subject parcel will be implemented through the conditions of a Development Permit.

2. BUDGET / GRANT / RESOURCE IMPLICATIONS:

If first Reading is given to proposed Bylaw 2021/06/D for the DC-1 district, the typical expenses associated with circulating the notices of public hearing would apply.

3. ALIGNMENT WITH LEGISLATION AND TOWN PLANS:

Type of Document	Yes ~ N/A ~ Partial	Comments
Provincial Acts / Regulations	Yes	<i>Alberta Public Health Act and Food Regulation Municipal Government Act (MGA) National Building Code, Alberta Edition Societies Act, Cooperatives Act</i>
Municipal Bylaws	Yes	Business Licence Bylaw 2008/15/D Community Standards Bylaw 2015/08/D Land Use Bylaw 2020/12/D
Municipal Development Plan	Yes	Section 2.8- Commercial/Light Industrial Areas, Map 4
Sustainability Vision 2019-2021	No	N/A
Town of Drayton Valley Strategic Plan 2019-2021	Yes	Goal One- Recovery in Drayton Valley Goal Three- A Sense of Community
Other Plans or Policies	Yes	Social Development Plan 2020-2024, A Community fulfilled with food that is accessible and secure for all (Page 15)

4. POTENTIAL MOTIONS:

A. That Council give First Reading to proposed Direct Control One (DC-1) Commercial, Farmers' Market Bylaw 2021/06/D, as presented.

B. That Council give First Reading to proposed Direct Control One (DC-1) Commercial, Farmers' Market Bylaw 2021/06/D with amendments to _____.

C. That Council table First Reading of proposed Direct Control One (DC-1) Commercial, Farmers' Market Bylaw 2021/06/D, to request further information from Administration in regards to: _____.

D. That Council decline to give First Reading to proposed Direct Control One (DC-1) Commercial, Farmers' Market Bylaw 2021/06/D.

5. RECOMMENDATION

Administration recommends giving First reading to proposed Direct Control One (DC-1) Commercial, Farmers' Market Bylaw 2021/06/D.

After First Reading of proposed Direct Control One (DC-1) Commercial, Farmers' Market Bylaw 2021/06/D, Administration will advertise a public hearing prior to Second and Third Readings of the Bylaw.

6. ATTACHMENTS:

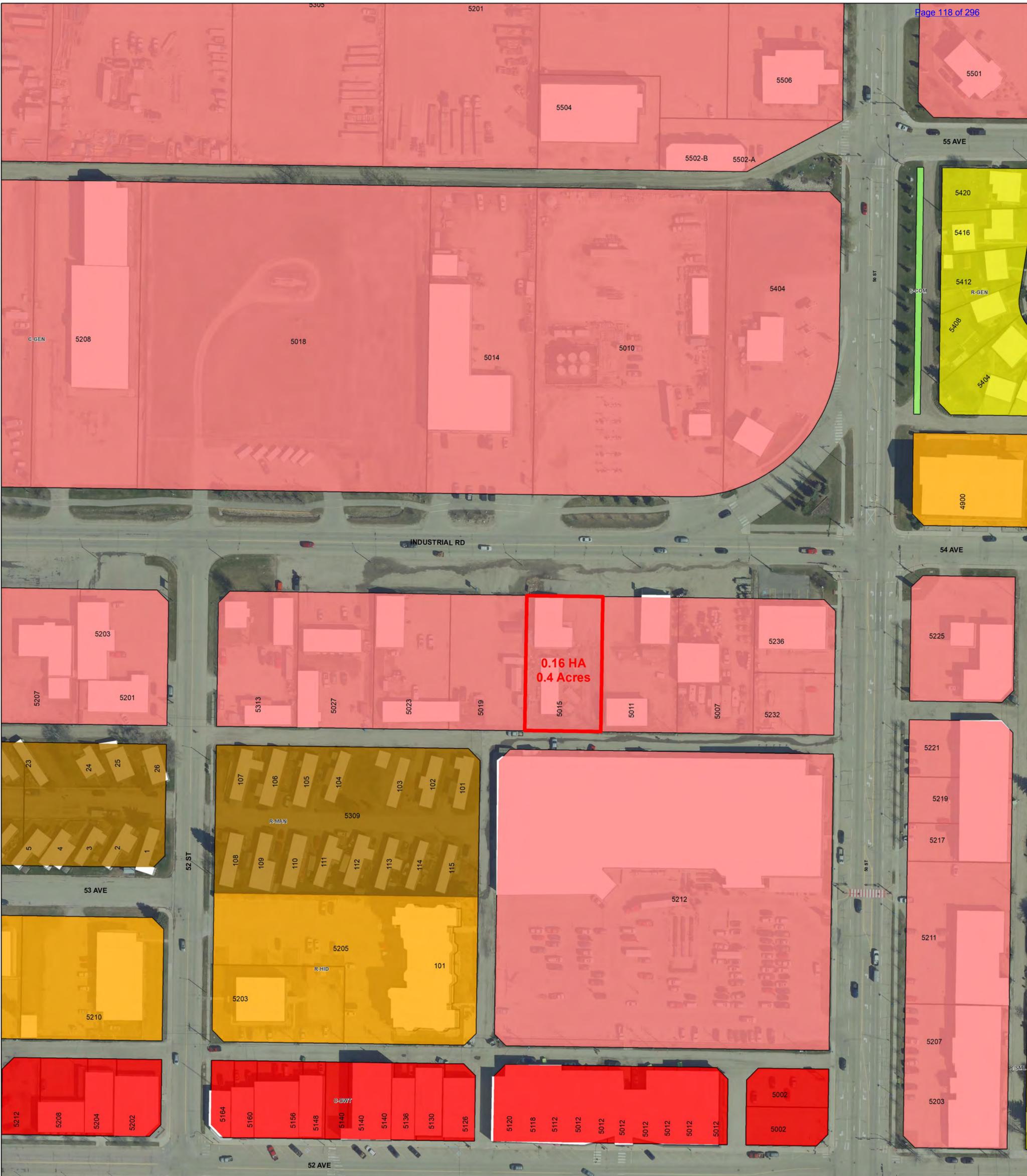
1. Site Location and Zoning Map
2. Site Plan
3. Municipal Development Plan Map 4
4. May 13, 2021 Site Photos
5. 2015 Aerial Photo
6. Draft Bylaw 2021/06/D
7. Current Location Site Photos

- 8. Farmers' Market Access and Parking
- 9. Excerpt from Guide to Starting a Farmers' Market
- 10. Farmers' Market draft MOU and Landowner Letters

REPORT PREPARED BY:		REVIEWED BY:	
APPROVED BY:			

ATTACHMENT

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Town of Drayton Valley Zoning Map

August 2021

Legend

- Areas of Interest
- C-DWT Commercial, Downtown District
- C-GEN Commercial, General District
- R-HID Residential, High Density District
- R-MAN Residential, Manufactured Home Park District
- S-COM Special, Community Services District

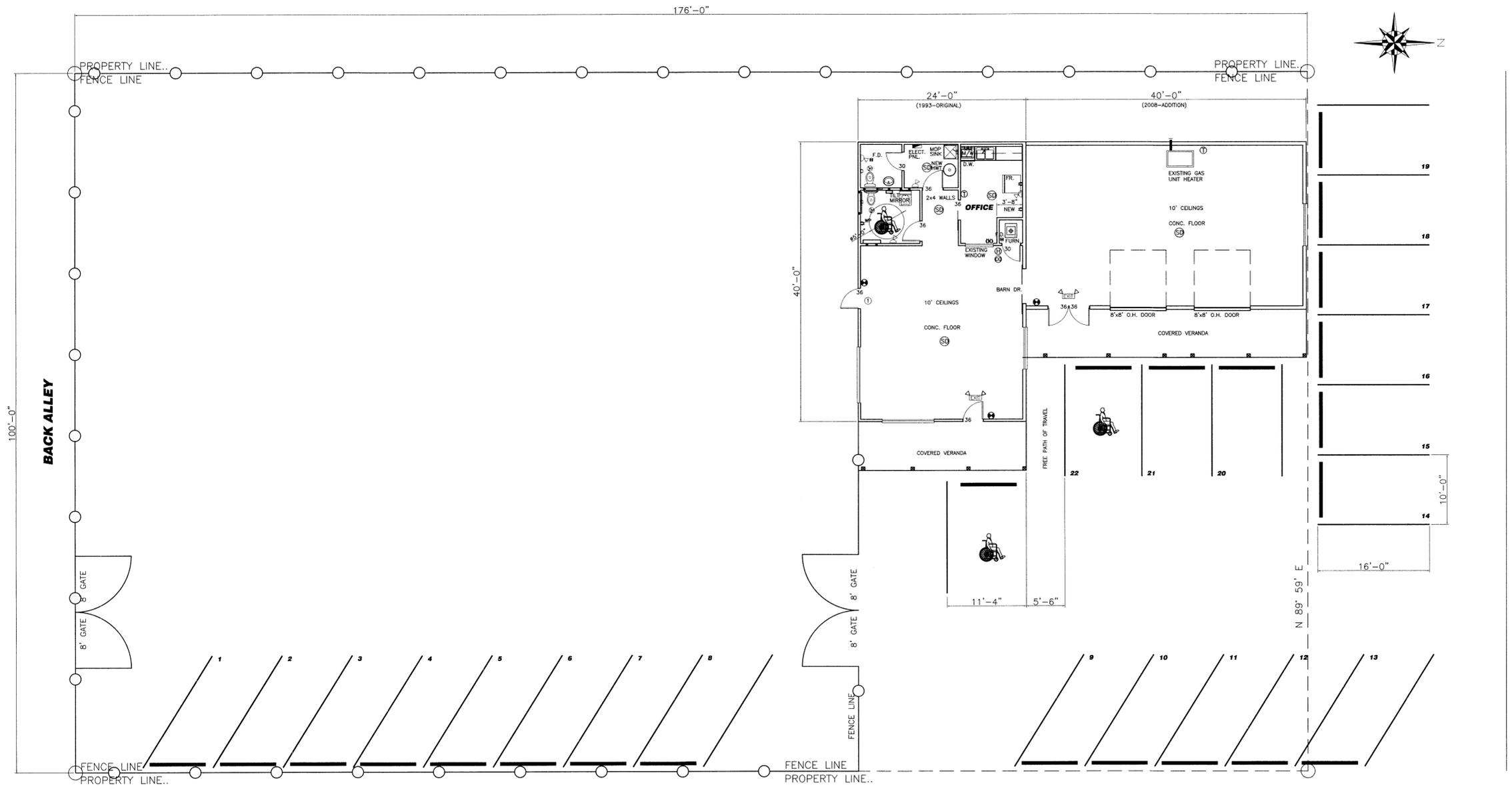


0 50 100
Meters

This map is for advisory purposes only and does not replace a legal land survey. It is based on data sources deemed reliable but the Town of Drayton Valley is not responsible for errors or omissions.

ATTACHMENT 2

SITE PLAN



PROPOSED PARKING LAYOUT
 SCALE : 3/16" = 1'-0"

"NEW" D.V. AGRICULTURAL SOCIETY
LOT : 5
BLOCK # : 11
PLAN # : 5935-HW
CIVIC ADDRESS : 5015 INDUSTRIAL ROAD.
DRAYTON VALLEY, ALBERTA

no.	description	revisions	date	checked

detail legend	
A	A DETAIL NO.
B	B LOCATION DWG. NO.
C	C DETAIL DWG. NO.
DETAIL NUMBERS	TO

seal

project
 D.V. AGRICULTURAL SOCIETY
 5015 INDUSTRIAL ROAD,
 DRAYTON VALLEY, ALBERTA

drawing title
 PROPOSED PARKING LAYOUT

scale AS SHOWN

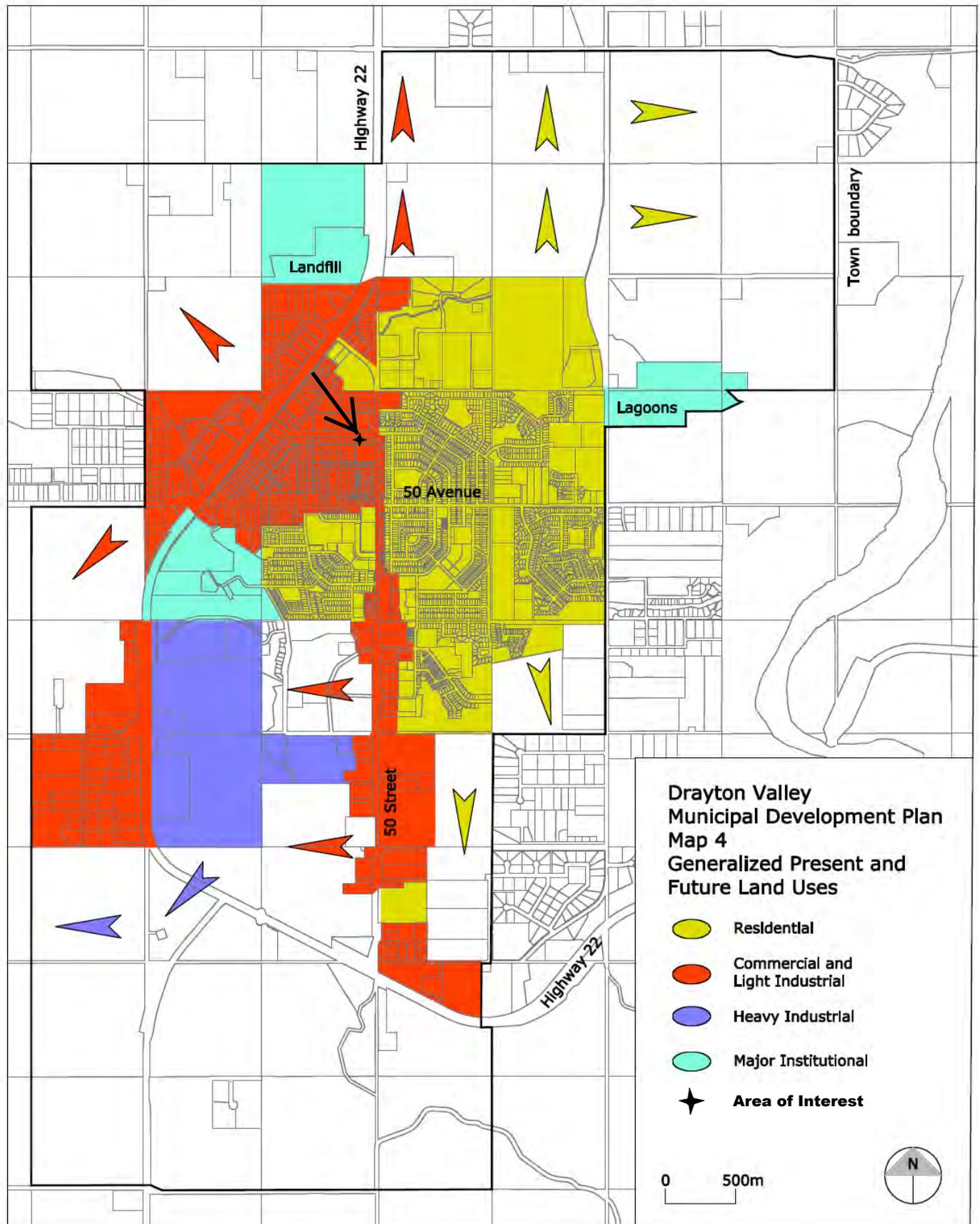
drawn by A. KELLY drawing no. **A-3**

reviewed by COLLEEN/HARVEY

date MAY 7 /21 project no. DV-AG

units AS SHOWN

ATTACHMENT 3
MUNICIPAL DEVELOPMENT PLAN- MAP 4



ATTACHMENT

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Subject parcel from opposite side of Industrial Road looking south



From the front of the subject parcel looking east along Industrial Road towards 50 Street



Storage container to the west of the building on the subject parcel



The gate at the rear of the subject parcel from the lane



From the subject parcel looking east along the lane towards 50 Street



From the subject parcel looking west along the lane towards 52 Street

ATTACHMENT 5

2015 AERIAL PHOTOGRAPH



ATTACHMENT 6

DRAFT BYLAW 2021/06/D



DRAFT BYLAW 2021/06/D

BYLAW NO. 2021/06/D

Name of Bylaw: Direct Control One (DC-1) Commercial, Farmers' Market

WHEREAS Council deems it necessary to amend Land Use Bylaw 2020/12/D by re-zoning the subject parcel from the existing Commercial, General (C-GEN) land use district to a newly created Direct Control, One (DC-1) land use district.

AND WHEREAS Council wishes to include a Farmer's Market as defined in Section 6- Glossary of Land Use Bylaw 2020/12/D as a Permitted Use in the newly created DC-1 land use district.

AND WHEREAS Council also wishes to include those land uses currently listed as Permitted Uses or Discretionary Uses in the Commercial, General (C-GEN) land use district in the new DC-1 land use district.

NOW THEREFORE the Council of the Town of Drayton Valley, duly assembled, hereby enacts as follows, pursuant to Part 17 of the Municipal Government Act, 2000:

TITLE

1. This Bylaw may be cited as the "Direct Control One (DC-1) Commercial, Farmers' Market of the Town of Drayton Valley".

PURPOSE

1. The purpose of this Bylaw is to provide flexibility by creating a new Direct Control (DC-1) land use district that includes a Farmers' Market, as defined in Section 6- Glossary, in addition to other land uses currently listed as Permitted Uses in the Commercial, General (C-GEN) land use district of Land Use Bylaw 2020/12/D at the subject property.
2. Land uses listed as Discretionary in the Commercial, General (C-GEN) land use district of Land Use Bylaw 2020/12/D are continued in this newly created DC-1 district at the subject property.
3. Pursuant to Section 641(3) of the Act, the power to approve applications for Development Permits may be delegated to a Development Officer or Senior Planner when the proposed use is consistent with the uses and standards set out below. The provisions of the newly created land use district known as Direct Control One (DC-1) shall be as provided in Appendix "A", Figure 7 attached hereto.

4. The land use designation of Lot 5, Block 11, Plan 5935HW (municipally known as 5015 Industrial Road), as shown in Appendix "A" attached hereto are changed from Commercial, General (C-GEN) to Direct Control One- (DC-1).

DRAFT

**Bylaw 2021/06/D
Appendix "A"**

"DC-1" DIRECT CONTROL, ONE- COMMERCIAL, FARMERS' MARKET

PURPOSE:

To provide flexibility by permitting a Farmers' Market, as defined in Section 6- Glossary, in addition to other land uses currently listed as Permitted Uses in the Commercial, General (C-GEN) land use district of Land Use Bylaw 2020/12/D at the subject property.

DEVELOPMENT PERMITS:

a) The Development Authority shall consider and decide upon Development Permit applications within this district. **Notwithstanding section 5.4 (b) of Land Use Bylaw 2020/12/D, a Planning and Development Officer and Senior Planner can make decisions on Development applications for all permitted uses in this Direct Control One- (DC-1) District.**

b) The Development Authority may grant a Variance for a Development Permit in accordance with Sections 2.10 through 2.17 of the Land Use Bylaw. **Notwithstanding section 5.4 (b) of Land Use Bylaw 2020/12/D, a Planning and Development Officer and Senior Planner can make decisions on Development applications for all variances 30% or less in this Direct Control One- (DC-1) District.**

AREA:

The Direct Control, One (DC-1) district applies to the parcel identified as Lot 5, Block 11, Plan 5935HW (municipally known as 5015 Industrial Road) and shown in **Figure 7- Direct Control, One (DC-1) 1 Land Use Location Map.**

**Figure 7-
Direct Control, One (DC-1) 1 Land Use Location Map**



PERMITTED USES:	DISCRETIONARY USES:
Accessory Building/Structure	Auction Market
Alcohol Production	Automotive Sales and Service
Animal Services Facility (Minor)	Cannabis Processing (Micro)
Establishment (Eating & Drinking/Entertainment)	Care Facility (Child/Large Group)
Farmers' Market	Communications Tower
Financial Institution	Establishment (Adult)
Government Services	Funeral Home
Hotel/Motel	Gas Station
Office	Industrial (Light)
Recreation (culture & Tourism)	Recreation (Public)
Recreation (Private)	Recycling Facility
Religious Assembly	Retail (Large/Shopping Centre)
Retail (Cannabis/Liquor/Small/General)	School
School (Trade)	Drive-Through
	Solar Panels (Wall Mounted)

Those uses, not otherwise defined in the Bylaw, which in the opinion of the Development Authority are similar to the Permitted or Discretionary Uses and conform to the purpose of this District.

MINIMUM PARCEL SIZE: 0.16 hectares*

Parcel Width	Parcel Depth
30.0 m*	53.6 m*

*Minimum Parcel Size, Parcel width and Parcel Depth are those dimensions for the subject parcel that exist on the date this land use district comes into effect.

MAXIMUM BUILDING HEIGHT: 20.0 m**MINIMUM SETBACKS:**

MAIN BUILDING		
Front Yard	Side Yard	Rear Yard
8.0 m	3.0 m	5.0 m
ACCESSORY BUILDINGS		
Front Yard	Side Yard	Rear Yard
No Accessory Buildings Permitted in the Front Yard	1.0m	1.0m

NUMBER OF FARMERS' MARKET VENDORS: based on a maximum of 50 Market Vendors.

LANDSCAPING: The minimum number of trees provided within the confines of the subject parcel shall be one tree per 400 m² of gross parcel area, as per the requirements of Section 3.19 (Tree Planting) and Table 5 (Tree Planting Minimums) in Land Use Bylaw 2020/12/D.

Tree plantings shall generally face the frontage along Industrial Road and may be provided within planters on the property. If the Landscaping requirements cannot be adhered to because of the limitations of the subject parcel, alternative provisions may be provided at the direction of a qualified landscaping professional and to the satisfaction of the Development Authority. Otherwise, all other Landscaping requirements of Sections 3.18 through 3.25 of Land Use Bylaw 2020/12/D apply.

PARKING REQUIREMENTS:

Use	Required Parking Stalls
Farmers' Market	60 (based on a ratio of 2 per vendor, capped at 30 Market Vendors) *
All Other Uses	In accordance with Section 3.38 and Table 6-Parking Minimums of the Land Use Bylaw
Bicycle Parking Spaces	4 spaces

*The total number of required parking spaces include those provided on-site as well as the Town road allowance in front of the subject property. The remaining required parking spaces shall be secured through one/more communal parking agreements with surrounding and nearby landowner(s). The Town shall be notified if or when a parking agreement is amended or canceled by either party.

All other Parking regulations as stated in Sections 3.37-3.42, 3.43.i and 3.44-3.55, inclusive of Tables and Figures contained in these sections of the Land Use Bylaw apply.

DAYS AND HOURS OF OPERATION:

Hours of operation that generally apply to the Farmers' Market only:

a) **Wednesday and Saturday**

i) If the Farmers' Market is to be held on days other than those stated above, the host of the Farmers' Market shall provide 3 weeks' notice to surrounding landowners notifying them of the alternative days.

b) Hours of operation will typically be 1:00 pm-8:00 pm on Wednesday every week from May to September and monthly on Wednesdays or Saturdays 8:00 am-6:00 pm from October to May. These Hours may vary and as such, the host of the Farmers' Market shall provide 3 weeks' notice to surrounding landowners notifying them of the alternative hours.

No restrictions to days and hours of operation for other Permitted and Discretionary land uses in the DC-1 land use district.

ADDITIONAL REQUIREMENTS:

- a) Outdoor storage and display shall not be permitted except for a Farmers' Market and sidewalk sales,
- b) Garbage storage shall be confined to a designated area and shall not have an adverse affect on the use or circulation on the parcel or adjacent lands,
- c) Maximum of two shipping containers of up to 12m (40 ft) in length are permitted at the west side or to the rear sides of the main building. The exterior of the Shipping containers shall be reasonably maintained at the discretion of the Development Authority.
- d) Requirements of other authorities, as stated in Section 1.4 of the Land Use Bylaw apply.

EXCEPTIONS:

- a) Auction Markets exclude Livestock sales.

INTERPRETATION

1. Words used in the singular include the plural and vice-versa.
2. Words used in the present tense include the other tenses and derivative forms.

SEVERABILITY

1. If any provision of this Bylaw is held to be invalid by a court of competent jurisdiction, that decision will not affect the validity of the remaining provisions of the Bylaw.

AND THAT this Bylaw shall come into force and have effect from and after the date of third reading thereof.

Read a first time this ____ day of _____, 2021, A. D.

Public Hearing held this ____ day of _____, 2021, A. D.

Read a second time this ____ day of _____, 2021, A. D.

Read a third and final time this ____ day of _____, 2021, A. D.

MAYOR

CHIEF ADMINISTRATIVE OFFICER

DRAFT

ATTACHMENT

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Eldorado School 50 Street Parking Lot looking south



Eldorado School 50 Avenue parking lot looking west towards Life Church

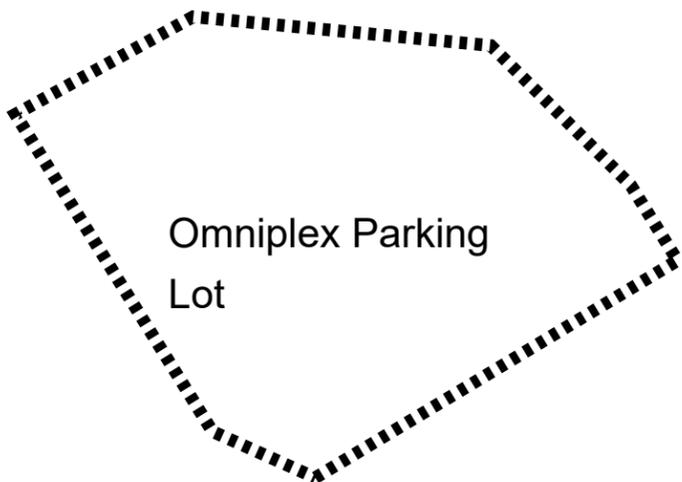
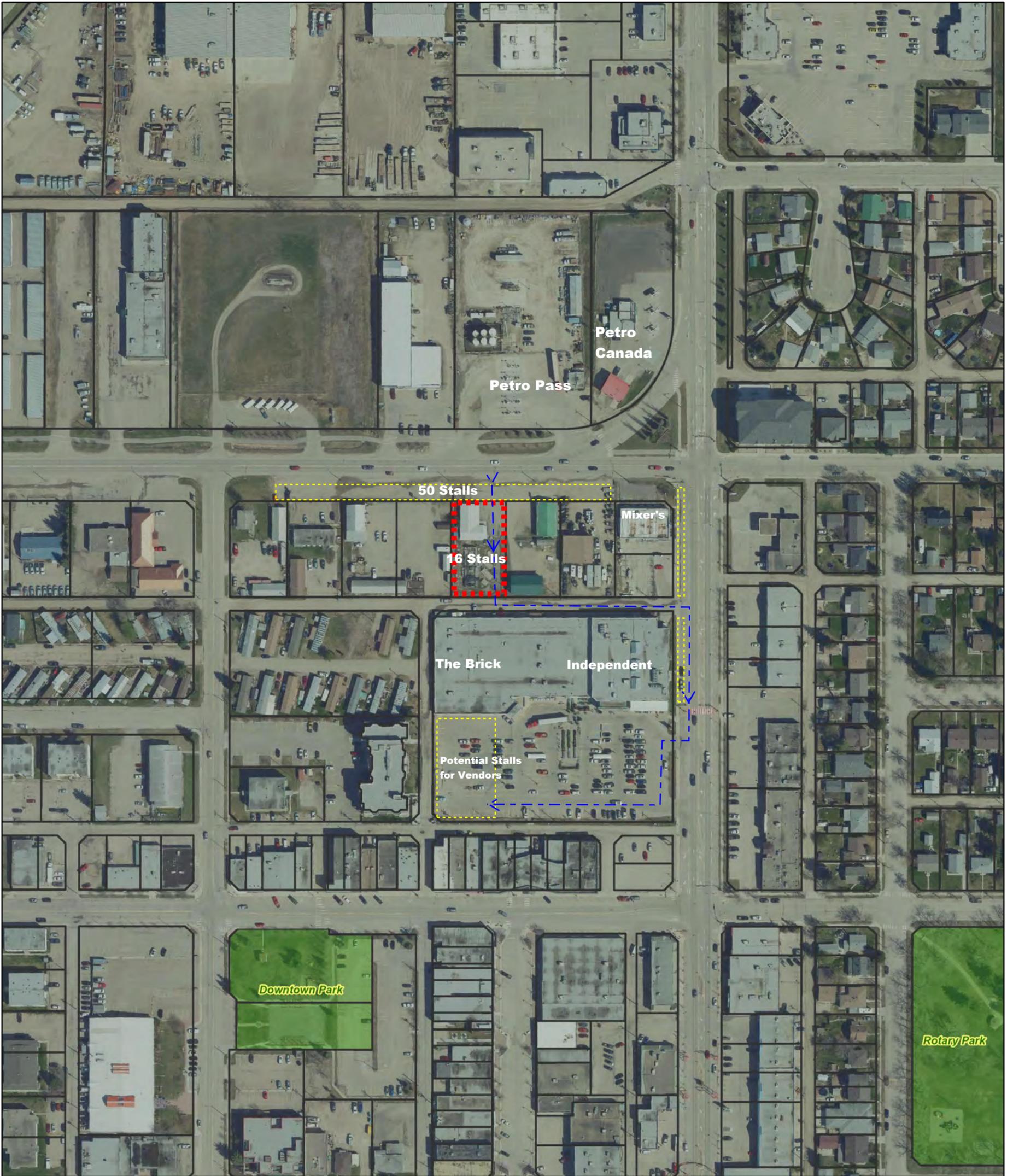


Food truck to the south of the Eldorado School 50 Avenue parking lot



Entrance of the Farmer's Market in the Life Church parking lot

ATTACHMENT 8
FARMERS' MARKET ACCESS AND PARKING



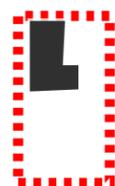
Occasional Location

Life Church/Eldorado



Current Location

Ag Society Office
5015 Industrial Road



Proposed New Location

ATTACHMENT

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Things to consider when selecting a site:

- **Size:** How many tables/stalls will the site accommodate? Is there room to increase the existing number of vendors? If your size is limited, is there a way to reconfigure the layout of the stalls to be able to increase the number of vendors? If your site is available year round, could you have some vendors set up outside during the summer months to allow for an increase in vendors during the busy season?
- **Centrality:** Is the site central to where your potential customers live, work and shop? If it isn't central, is there public transportation available so that customers who don't drive can still attend the market?
- **Transportation:** As noted above, some of your customers won't be able to drive so alternatives need to be available to them. For example, if seniors make up an important component of your target audience but the market is not within easy walking distance of where the seniors are located in your community, is it possible to rent a van each week to transport seniors to the market?
- **Parking:** Is there ample parking? The rule of thumb is two to three stalls per vendor. Is the parking lot paved, on grass or gravel and what impact will there be when it rains?
- **Surface cover/flooring:** If indoors, is the market on a cement surface, tile or hardwood? If the market is outside, is the surface paved, gravel, on grass, etc.? And what is the impact when it rains? Consult with Alberta Health Services for outdoor surfaces that are not recommended/viable for a farmers' market.
- **Water:** Potable water must be available for your vendors.
- **Restrooms:** Restrooms for vendors and customers must be available within the area.
- **Cost:** Is the facility provided by your sponsor at no cost or is there a weekly/seasonal fee or a long term lease? If the facility is available exclusively to your market year round, what else can you do with the building on off-market days in order to recoup some of your expenses?

Source: Alberta Agriculture and Forestry, Starting an Alberta Approved Farmer's Market (2018)

ATTACHMENT 10

FARMERS' MARKET MOU AND LANDOWNER LETTERS

Memorandum of Understanding

Memorandum of Understanding

Between

(Add Business name HERE)

And

Drayton Valley & District Agricultural Society

(Herein referred to as DV Ag Society)

This Memorandum of Understanding (MOU) sets the terms and understanding between The BUSINESS and the DV & District Ag Society to utilize (# of parking spaces) for the Drayton Valley Farmers' Market on Wednesdays weekly from May to September from 1:00 pm-8:00 pm and monthly Wednesdays OR Saturdays 8:00 am-6:00 pm from October to May.

Background

The Drayton Valley & District Agricultural Society has purchased the building and land at 5015 Industrial Rd to house the Drayton Valley Agricultural Society office and meeting room as well as the weekly market. The building should be opening in August of 2021. The DC-1 zoning allows for multiple uses out of this location and requests for additional parking agreements with surrounding business is a condition of the Town of Drayton Valley. The Ag Society is in need of 30 offsite parking spots for its vendors in order to accommodate more spaces for the public onsite and to find an additional 30 parking stalls for public use overflow.

Purpose

This MOU will allow a clear understanding of the arrangement between the BUSINESS and the Drayton Valley & District Agricultural Society. The goal is to give vendors, staff, volunteers and public places to park near the location without congesting the available parking spaces on site at 5015 Industrial Rd.

- The Agricultural Society will provide a map of the area to be used by vendors and staff that does not conflict with the public parking normally used by the BUSINESS customers.
- They will maintain adequate insurance for their event and will include the BUSINESS as additional named insured if required.
- Signage may be provided for participating businesses in areas where parking is NOT permitted to reduce disruption.
- The Drayton Valley & District Agricultural Society is a Not For Profit organization that depends on volunteerism and donations, grants and the income from Farmers' Market and events of this sort to operate in the community. This MOU understands that this is an IN KIND shared use of space and that no money will be transferred by or to either party.

Duration

This MOU is at-will and may be modified by mutual consent of authorized officials from The Business and the Drayton Valley & District Agricultural Society. This MOU shall become effective upon signature by the authorized officials and will remain in effect until modified or terminated by any one of the partners by mutual consent.

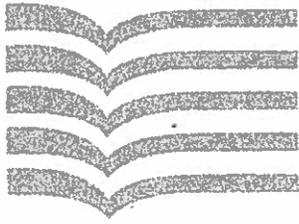
Contact Information

The Business
Contact person:
Address:
Telephone: 780-
E-mail:

Drayton Valley & District Agricultural Society
Harvey Miller, President
Box 6985 Drayton Valley, T7A 1S3
Telephone: 780-898-5351
E-mail: dvagsocietyinfo@gmail.com

_____ Date:
(Signature)
(The BUSINESS)

_____ Date:
(Signature)
(Harvey Miller, Drayton Valley & District Agricultural Society, President)



DRAYTON VALLEY
& DISTRICT
AGRICULTURAL SOCIETY

Box 7257
Drayton Valley Alberta
T7A 1S5

May 25, 2021

Regarding: Events PARKING for Drayton Valley & District Agricultural Society

Hello Neighbours!!

The Drayton Valley & District Agricultural Society would like to ask permission to utilize parking in front of your business during weekly or monthly Farmer's Market operations seasonally.

The Farmers Market currently runs Wednesdays from 4:00 pm-7:00 pm from May to October. During the Off-Season we may have monthly Saturday Markets but they would be much smaller than the high season and would be during the day between 10:00 am-3:00 pm. Christmas markets would still be at Omniplex/Mackenzie Centre.

We understand that there will be some inconvenience to surrounding businesses if there are public parking in your business spaces. We would hope you could look at the positives instead of negatives and think of ways to advertise your business or service to the people parking in your space for the short period of time there is a conflict. We often attract 300-500 people in the 3 hours we are open and the mix seems to be half town and half County with a few from further away in summer months. This is great exposure and could translate into new customers.

We are also looking for off site reserved spaces for market vendors. They would be arriving about 2:00 pm and leaving about 7:10 pm. If you have spaces to donate for the 30 people needing them, please let us know.

Thank you for considering our request. Please contact Harvey Miller (President) at 780-898-5351 or Colleen Schoeninger through email at _____ with any questions you may have.

If you have no questions and are not opposed to the market setting up in the neighbourhood, please sign your name and business and contact at the bottom of the page and we will submit on your behalf.

Concerns can be directed to Ag President or Matt at Town of Drayton Valley Planning Department.

Sincerely,

Drayton Valley Agricultural Society

Bald Eagle Plumbing + Heating
no concern

May 26/21

Bruce Burdelean



DRAYTON VALLEY
DISTRICT
AGRICULTURAL SOCIETY

Box 7257
Drayton Valley Alberta
T7A 1S5

May 25, 2021

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Sincerely,

Drayton Valley Agricultural Society

Home Away Inn

Daily / Weekly / Monthly Stay Hotel

www.TheHomeAway.com

Toll Free 1-(866)-927-0220

TEL 780-542-4255

FAX 780-800-6990

HomeAwayInn.DV@gmail.com



5208 Industrial Road
Drayton Valley
Alberta. T7A 1R6

DRAYTON VALLEY DISTRICT AGRICULTURAL SOCIETY

Box 7257
Drayton Valley Alberta
T7A 1S5

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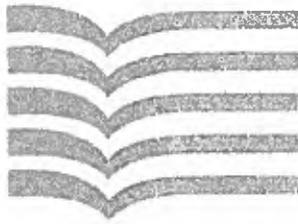
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Concerns can be directed to Ag President or Matt at Town of Drayton Valley Planning Department.

Sincerely,

Drayton Valley Agricultural Society

No
concerns.



DRAYTON VALLEY & DISTRICT AGRICULTURAL SOCIETY

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T7A 1S5

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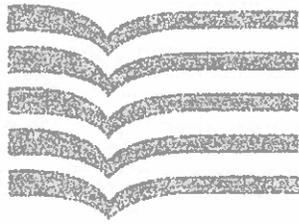
Drayton Valley Agricultural Society



Dean Gabrielson
Operations Administration Manager

(780) 542-3096 Box 7866
dgabrielson@keystonefieldeng.com 5014 Industrial Road
www.keystonefieldeng.com Drayton Valley, AB T7A 1S9

no concerns



DRAYTON VALLEY & DISTRICT AGRICULTURAL SOCIETY

Box 7257
Drayton Valley Alberta
T7A 1S5

May 25, 2021

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Sincerely,

Drayton Valley Agricultural Society
TRACY Petro Canada Bulk
Office - 780 542-4360.

please put up sandwich board saying no event parking because of card lock - semi activity.

MIXERS
Liquor Store



Frank & Clara
Owners/Operators

Store: 780-542-7595
Cell: 780-722-5418
Fax: 780-542-5094

5236 - 50 Street
Drayton Valley, AB
frank_cho@hotmail.com

**DRAYTON VALLEY
DISTRICT
AGRICULTURAL SOCIETY**

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Drayton Valley Alberta
T7A 1S5

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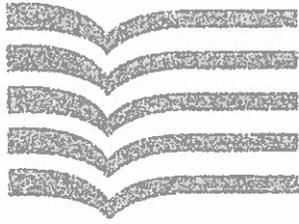
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Sincerely,

Drayton Valley Agricultural Society

once a month Saturday is fine
weekly Wednesday is more of an issue
we do it have much parking.
Please send yearly calendar of dates.



DRAYTON VALLEY
& DISTRICT
AGRICULTURAL SOCIETY

Box 7257
Drayton Valley Alberta
T7A 1S5

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Sincerely,

Drayton Valley Agricultural Society

Beck *Harvey Miller* *Colleen Schoeninger*

TOWN OF DRAYTON VALLEY REQUEST FOR DECISION



SUBJECT:	Whistleblower Policy A-02-21
MEETING:	August 18, 2021 Regular Meeting of Council
PRESENTED BY:	Annette Driessen Acting Chief Administrative Officer

1. PROPOSAL AND BACKGROUND:

Town Council has requested Administration develop a policy that establishes an accessible process for employees and members of the public to identify and report wrongdoing, with the knowledge that they will be protected from retaliation when acting in good faith.

The purpose of this policy is to further the Town of Drayton Valley's core value of integrity, respect, safety, fairness and cooperation in all municipal operations, and ethical behavior on the part of Council, Employees and Contractors.

2. BUDGET / GRANT / RESOURCE IMPLICATIONS:

There is no impact to the annual operating budget.

3. ALIGNMENT WITH LEGISLATION AND TOWN PLANS:

Type of Document	Yes ~ N/A ~ Partial	Comments
Provincial Acts / Regulations	Yes	Public Interest Disclosure (Whistleblower Protection) Regulation Public Interest Disclosure (Whistleblower Protection) Act
Municipal Bylaws	N/A	
Municipal Development Plan	N/A	
Sustainability Vision 2019-2021	N/A	
Town of Drayton Valley Strategic Plan 2019-2021	N/A	
Other Plans or Policies	N/A	

4. POTENTIAL MOTIONS:

- A. That Town Council approve Whistleblower Policy A-02-21, as presented.
- B. That Town Council approve Whistleblower Policy A-02-21 with the following amendments_____.
- C. That Town Council decline to approve Whistleblower Policy A-02-21.

5. RECOMMENDATION:

Administration recommends the approval of Whistleblower Policy A-02-21.

6. ATTACHMENTS:

1. Proposed Whistleblower Policy A-02-21
2. Public Interest Disclosure (Whistleblower Protection) Regulation
3. Public Interest Disclosure (Whistleblower Protection) Act

REPORT PREPARED BY:		REVIEWED BY:	
APPROVED BY:			

Subject:	Whistleblower Policy	Policy No.:	A-02-21	
Department:	Administration			
Approval Date:		Review Date:		
Associated Policies:				

Whistleblower Policy

Purpose

The purpose of this policy is to further the Town of Drayton Valley's core values of integrity, respect, safety, fairness and cooperation in all municipal operations, and ethical behavior on the part of Council, Employees and Contractors.

The Town of Drayton Valley will not tolerate Wrongdoing or Reprisals against employees who report Wrongdoing, and all employees have a duty to report suspected Wrongdoing.

The Whistleblower Policy establishes an accessible process for employees and members of the public to identify and report wrongdoing, with the knowledge that they will be protected from retaliation when acting in good faith.

General Policy

Definitions

Within this Policy the following definitions shall apply:

Allegation: means a complaint submitted under the Whistleblower Policy alleging wrongdoing on the part of any Employee or Contractor or alleging that any person has been a victim of Retaliation.

Chief Administrative Officer: (CAO) has the meaning given to it in the *Municipal Government Act, RSA 2000, c. M-26, as amended (MGA)*.

Contractor: means any person, corporation or firm with whom the Municipality has a contract for procurement of goods and/or services.

Disciplinary Action: means any consequence imposed upon a person as a result of an act of wrongdoing, which may include, but is not limited to, the following:

Subject:	Whistleblower Policy	Page:	2 of 4
Department:	Administration		
Approval Date:		Review Date:	

- educational training on ethical conduct;
- removal of a Councillor, Employee or Contractor from any place where they represent the Town of Drayton Valley, including any committee, board, or corporation;
- removal from any position of responsibility in the Town of Drayton Valley;
- termination of employment with the Town of Drayton Valley;
- termination of a contract; or
- such other discipline as may be considered appropriate in the circumstances.

Elected Official: means a Councillor as defined in the MGA.

Employee: means any person directly employed by the Town of Drayton Valley, including the CAO.

Retaliation: means any action in reprisal against a person who has made an Allegation of Wrongdoing. Retaliation can include, termination, demotion, change in job location, suspension, compensation decreases, changes in work hours, disciplinary action, bullying and/or harassment or poor work assignments and threats of harm.

Whistleblower: means a person who reports a wrongdoing or makes an allegation.

Wrongdoing: means an act or omission that constitutes one or more of the following, in relation to the Town of Drayton Valley:

- a contravention of federal or provincial legislation or regulations;
- gross mismanagement, including an act or omission that shows a reckless or willful disregard for the proper management of:
 - municipal funds or a municipal asset;
 - the delivery of a municipal service;
 - employees, by a pattern of behavior or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment, or intimidation.
- any act of fraud;
- an act or omission that creates a substantial and specific danger to the life, health, or safety of any person, or to the environment, other than a danger

Subject:	Whistleblower Policy	Page:	3 of 4
Department:	Administration		
Approval Date:		Review Date:	

inherent in performance of a person's duties as a Councillor, Employee or Contractor.

Responsibilities

Human Resources /Health & Safety/CAO:

Ensure that a whistleblower whose allegation of wrongdoing is made in good faith is protected from retaliation regardless of the outcome of the ensuring process.

Establish processes which allow for:

- Whistleblowers to make Allegations of Wrongdoing relating to Councillors, Employees and/or Contractors;
- Allegations to be screened for legitimacy and potential investigation;
- Appropriate discipline to be imposed when an Allegation is substantiated; and
- Adequate resources to be made available to support all investigations.

Advise Council of any allegations that, if substantiated, may involve significant imminent risk to the Municipality or may involve past, present, or imminent criminal activity that would affect the Municipality.

Allegations:

Any individual who makes an allegation of wrongdoing must provide sufficient evidence to substantiate the allegation.

Anonymous allegations will only be considered when one or more of the following criteria are met:

- there is significant imminent risk to the Municipality;
- there is evidence of past, present or imminent criminal activity involving the Municipality;
- the Allegation impacts the health, safety or wellbeing of Councillors, Employees, Contractors or the general public; or

Subject:	Whistleblower Policy	Page:	4 of 4
Department:	Administration		
Approval Date:		Review Date:	

An allegation which discloses information suggesting criminal activity, an imminent risk of substantial danger to the life, health or safety of any person, or a risk to the environment, must be immediately disclosed to the RCMP or the appropriate regulatory authority.

Comprehensive Provisions:

Confidentiality

The identity of individuals involved in an investigation, including the identity of an individual alleging Wrongdoing and the identity of the individual alleged to have committed Wrongdoing, will be protected to the fullest extent possible.

Internal

All employees who are aware that Wrongdoing has occurred are encouraged to immediately notify their Manager, Human Resources, Health & Safety or CAO.

External

All reports of Wrongdoing from the general public that includes specific information involving an employee will be investigated in accordance with this policy

Investigations:

All investigations will be conducted as expeditiously as possible.

All Councillors, Employees and Contractors who are aware, or become aware, of an investigation shall keep confidential and not disclose any knowledge they have or obtain concerning the details or results of an investigation.

A Councillor, Employee or Contractor who breaches confidentiality with respect to an investigation may be subject to Disciplinary Action, regardless of the impact of the disclosure on the investigation.

Right to Respond

The individual against whom allegations are being made will be given a reasonable opportunity to respond to those allegations as part of the investigation.

Mayor OR Chief Administrative Officer

Approval Date



Province of Alberta

PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION ACT)

**PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION)
REGULATION**

Alberta Regulation 71/2013

With amendments up to and including Alberta Regulation 81/2019
Current as of September 1, 2019

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

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*The year of first publication of the legal materials is to be completed.

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

(Consolidated up to 81/2019)

ALBERTA REGULATION 71/2013

**Public Interest Disclosure
(Whistleblower Protection) Act**

**PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION) REGULATION**

Table of Contents

- 1 Definitions
- 2 Designation of public entities and chief officers
- 3 General review procedures
- 4 Reporting
- 5 Extension of time
- 6 Notices and other communication
- 7 Limit on disclosure — quality assurance records
- 8 Exemption by Commissioner
- 10 Coming into force

Schedules

Definitions

1(1) In this Regulation, “Act” means the *Public Interest Disclosure (Whistleblower Protection) Act*.

(2) In this Regulation and the Act,

- (a) “chief officer” means a chief officer as defined in the Act, or designated under section 2(2) in respect of a public entity;
- (b) “employee” means an employee as defined in the Act and
 - (i) an individual employed by, or who has suffered a reprisal and is no longer employed by, a public entity designated under section 2(1), or
 - (ii) an individual who holds or who has held, has suffered a reprisal and no longer holds,
 - (A) an appointment as medical staff,
 - (B) an appointment as professional staff, or

- (C) privileges with a public entity designated in section 2 of Schedule 1;
- (c) “medical staff” means a physician appointed by a public entity designated in section 2 of Schedule 1 to admit, attend or treat, or who utilizes the resources of the public entity in respect of, patients;
- (d) “professional staff” means a health practitioner, other than a physician, who is regulated under a health profession statute and has been appointed by a public entity designated in section 2 of Schedule 1 to admit, attend or treat, or who utilizes the resources of the public entity in respect of, patients.

AR 71/2013 s1;15/2018

Designation of public entities and chief officers

2(1) For the purposes of section 2(1) of the Act, the following are designated as public entities to which the Act applies:

- (a) a Provincial corporation as defined in section 1(1)(r)(i) or (ii) of the *Financial Administration Act*;
- (b) an entity designated in Schedule 1.

(2) The chief officer for a public entity is

- (a) the individual designated in Schedule 2, or
- (b) if no individual has been so designated, the individual charged with the administration and operation of the public entity.

General review procedures

3(1) To assist employees in submitting a disclosure of wrongdoing that complies with section 13 of the Act, a disclosure of wrongdoing form may be provided

- (a) by a designated officer for the purposes of section 9 of the Act, or
- (b) by the Commissioner for the purposes of section 15.1 of the Act.

(2) To submit a complaint of reprisal referred to in section 25 of the Act an employee must use the form provided in Schedule 3.

(3) Without limiting the generality of section 5(2) of the Act, the procedures of a public entity for receiving and reviewing a

Section 3 PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) REGULATION AR 71/2013

disclosure of wrongdoing must include a provision regarding the referral of a disclosure of wrongdoing to an alternate that the chief officer considers to be appropriate, if the designated officer is in conflict of interest with respect to the nature of the disclosure or a person involved.

(4) If the Commissioner determines that he or she has a conflict of interest other than as described in section 12 of the Act, with respect to the nature of a disclosure of wrongdoing or a complaint of reprisal or with respect to a person involved, the Commissioner may delegate or refer the disclosure of wrongdoing or a complaint of reprisal to an alternate that the Commissioner considers to be appropriate.

(5) If a delegation or referral referred to in subsection (3) or (4) occurs,

- (a) the alternate referred to in subsection (3) may exercise all the powers and shall perform all the duties of a designated officer concerning the disclosure of wrongdoing, and
- (b) the alternate referred to in subsection (4) may exercise all the powers and shall perform all the duties of the Commissioner concerning the disclosure of wrongdoing or complaint of reprisal.

(6) If more than one disclosure of wrongdoing or complaint of reprisal is received by a designated officer or the Commissioner in respect of the same matter, a single investigation may be conducted rather than a separate investigation with respect to each disclosure of wrongdoing or complaint of reprisal.

(7) The procedures for receiving and reviewing a disclosure of wrongdoing shall provide for their timely and expeditious management as follows:

- (a) a disclosure of wrongdoing must be acknowledged not more than 5 business days from the date on which the disclosure of wrongdoing is received;
- (b) not more than 20 business days from the date on which the disclosure of wrongdoing is received,
 - (i) a decision whether to investigate must be made, and
 - (ii) an employee who submitted a disclosure of wrongdoing to which the investigation relates must be notified of that decision;

- (c) an investigation must be concluded not more than 120 business days from the date on which the disclosure of wrongdoing is received.

(8) The procedures for receiving and reviewing a complaint of a reprisal shall provide for their timely and expeditious management as follows:

- (a) a complaint of a reprisal must be acknowledged not more than 5 business days from the date on which the complaint of a reprisal is received;
- (b) not more than 20 business days from the date on which the complaint of a reprisal is received,
 - (i) a decision whether to investigate must be made, and
 - (ii) an employee who submitted a complaint of a reprisal to which the investigation relates must be notified of that decision;
- (c) an investigation must be concluded not more than 120 business days from the date on which the complaint of a reprisal is received;
- (d) if the Commissioner finds that a reprisal has been taken, directed or counselled contrary to section 24 of the Act, subject to section 26(2) and (4) of the Act, the Commissioner's report on the investigation must be referred to the Board not more than 5 business days from the date on which the investigation is concluded.

AR 71/2013 s3;15/2018

Reporting

4(1) For the purposes of section 5(2)(i) of the Act, a designated officer must provide his or her investigation report to the chief officer, in writing, on or before the date identified in section 3(7)(c).

(1.1) For the purposes of section 15.1(5) of the Act, a designated officer must provide his or her investigation report to the Commissioner, in writing, on or before the date identified in section 3(7)(c).

(2) A Commissioner's report referred to in section 22 of the Act shall be provided to the chief officer and designated officer of the affected department, public entity or office of the Legislature within 120 business days from the date on which the disclosure of wrongdoing or complaint of reprisal is received.

AR 71/2013 s4;15/2018

Extension of time

5(1) A chief officer may extend a time limit referred to in section 3(7), (8), 4(1) or 4(1.1), provided that the overall time period for investigation and the provision of a report is not extended for more than 30 business days.

(2) A chief officer may, with the Commissioner's permission, extend a time limit referred to in section 3(7), (8), 4(1) or 4(1.1) for a longer period that the Commissioner considers to be appropriate in the interest of a fair and efficient outcome, consistent with the purposes of the Act.

(3) The Commissioner may extend a time limit referred to in section 3(7) or 4(2) as the Commissioner considers to be appropriate in the interest of a fair and efficient outcome, consistent with the purposes of the Act.

(4) An extension by the Commissioner under subsection (2) or (3) may be made before or after the time period in question has expired.

(5) If a time period is extended under this section, the individual who submitted a disclosure of wrongdoing or complaint of reprisal must be promptly advised when he or she may expect the next procedural step to occur or be completed.

AR 71/2013 s5;15/2018

Notices and other communication

6 If the Act or this Regulation require a notice or any other communication to be provided, the requirement is validly discharged by communication in writing and sent by mail, transmitted by facsimile or transmitted by e-mail within the time limits established in accordance with the Act or this Regulation.

Limit on disclosure – quality assurance records

7(1) In this section, “quality assurance activity”, “quality assurance committee” and “quality assurance record” have the same meaning as “quality assurance activity”, “quality assurance committee” and “quality assurance record” in section 9 of the *Alberta Evidence Act*.

(2) For the purposes of section 28.1(1)(c) of the Act, nothing in the Act or this Regulation authorizes the disclosure of the following:

- (a) a quality assurance record, or
- (b) any other information, document or matter that arises from the quality assurance activities of a quality assurance committee.

(3) Subsection (2) does not apply to original medical and hospital records pertaining to a patient.

AR 71/2013 s7;15/2018

Exemption by Commissioner

8 The Commissioner may exercise the powers and perform the duties set out in section 31 of the Act if, in view of any one or more of the following factors, it would be inappropriate in the opinion of the Commissioner to apply the Act, a requirement of section 5, 7, 18.1, 22, 23 or 32 of the Act, or this Regulation to a person, class of persons, public entity, information, record or thing:

- (a) the small size or management structure of a public entity which is the subject of the disclosure of wrongdoing or complaint of reprisal;
- (b) the nature or content of the disclosure of wrongdoing or complaint of reprisal;
- (c) the persons involved in the disclosure of wrongdoing or complaint of reprisal.

AR 71/2013 s8;15/2018

9 Repealed AR 15/2018 s8.

Coming into force

10 This Regulation comes into force on the coming into force of the *Public Interest Disclosure (Whistleblower Protection) Act*.

Schedule 1

Public Entities

[Section 2(1)(b)]

Education sector

1 The following are designated as public entities in the education sector to which the Act applies:

- (a) the board under the *Education Act*;
- (b) the Francophone regional authority under the *Education Act*;
- (c) the person responsible for the operation of a private school registered under the *Education Act* that receives a

grant under the *Education Grants Regulation*
(AR 120/2008);

- (d) the operator of a charter school established under the
Education Act.

AR 71/2013 Sched 1;81/2019

Health sector

2 The following are designated as public entities in the health sector to which the Act applies:

- (a) for greater clarity, a regional health authority under the
Regional Health Authorities Act;
- (b) the following subsidiary health corporations under the
Regional Health Authorities Act:
 - (i) Calgary Laboratory Services Ltd.;
 - (ii) CapitalCare Group Inc.;
 - (iii) Carewest;
- (c) Covenant Health;
- (d) Lamont Health Care Centre.

Schedule 2

Chief Officers

[Section 2(2)]

Education sector

1 The following are prescribed as chief officers for public entities in the education sector:

- (a) the superintendent of the board under the *Education Act*;
- (b) the superintendent of the Francophone regional authority under the *Education Act*;
- (c) in respect of a private school registered and accredited under the *Education Act* that receives a grant under the *Education Grants Regulation* (AR 120/2008)
 - (i) the person responsible for the operation of the private school, or

- (ii) if the operator is incorporated or registered as a society under the *Societies Act*, the chair of the board of directors of the corporation or society;
- (d) the superintendent of a charter school established under the *Education Act*;
- (e) the president of a designated university, comprehensive community college or polytechnic institution;
- (f) the Chief Executive Officer of a corporation established under the *Alberta Research and Innovation Act*.

AR 71/2013 Sched 2;81/2019

Health sector

2 The following are prescribed as chief officers for public entities in the health sector:

- (a) the Chief Executive Officer of a regional health authority under the *Regional Health Authorities Act*;
- (b) the Chief Operating Officer of Calgary Laboratory Services Ltd.;
- (c) the Chief Executive Officer of CapitalCare Group Inc.;
- (d) the Executive Director of Carewest;
- (e) the Chief Executive Officer of Covenant Health;
- (f) the Executive Director of Lamont Health Care Centre.

AR 71/2013 Sched 2;10/2019

Schedule 3

Complaint of Reprisal Form

[Section 3(2)]

This form must be used to submit a complaint of a reprisal under the *Public Interest Disclosure (Whistleblower Protection) Act*. Please send this form directly to the Public Interest Commissioner at: _____ [contact info] _____.

Reprisal

24 No person shall take or direct, or counsel or direct a person to take or direct, any of the following measures against an employee because the employee has, in good faith, sought advice about making a disclosure, made a disclosure, cooperated in an investigation under this Act, declined

to participate in a wrongdoing or done anything in accordance with this Act:

- (a) a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand;
- (b) any measure, other than one mentioned in clause (a), that adversely affects the employee's employment or working conditions;
- (c) a threat to take any of the measures mentioned in clause (a) or (b).

General Contact Information

Name _____ Title _____
 Mailing Address _____
 City _____ Province _____ Postal Code _____
 Telephone Work _____ Home _____ Cell/Other _____
 Email (Optional) _____
 Name of Employer _____

Information about the Reprisal

Please provide a description of the reprisal(s) or threat(s) that have occurred or are occurring. Be sure to include all relevant dates, locations and names of individuals involved. Please attach any available supporting documents.

Declaration

I believe that all the information provided is true to the best of my knowledge. I acknowledge that knowingly making a false or misleading statement is an offence pursuant to the Act.

I do _____ (Signature) _____ (Current Date)

AR 71/2013 Sched.;15/2018



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Province of Alberta

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION) ACT

Statutes of Alberta, 2012
Chapter P-39.5

Current as of November 22, 2019

Office Consolidation

© Published by Alberta Queen's Printer

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Edmonton, AB T5K 2P7
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E-mail: qp@gov.ab.ca
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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Public Interest Disclosure (Whistleblower Protection) Act* that are filed as Alberta Regulations under the Regulations Act.

	Alta. Reg.	<i>Amendments</i>
Public Interest Disclosure (Whistleblower Protection)		
Public Interest Disclosure (Whistleblower Protection)	71/2013	15/2018, 10/2019, 81/2019
Public Interest Disclosure (Whistleblower Protection) Transitional	16/2018	
<i>NOTE: AR 16/2018 is subject to repeal in accordance with s53.2(2) of the Act</i>		

**PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION) ACT**

Chapter P-39.5

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “Board” means the Labour Relations Board;
- (a.1) “chief officer” means
 - (i) the deputy minister of a department,
 - (ii) the department head of an office, and
 - (iii) with respect to a public entity, the prescribed individual;
- (b) “Commissioner” means the Public Interest Commissioner appointed under section 38;
- (c) “department” means a department established under section 2 of the *Government Organization Act*;
- (d) “department head” means
 - (i) the Clerk of the Legislative Assembly with respect to the Legislative Assembly Office or an office of a member of the Legislative Assembly,
 - (ii) the Auditor General with respect to the Office of the Auditor General,
 - (iii) the Ombudsman with respect to the Office of the Ombudsman,
 - (iv) the Chief Electoral Officer with respect to the Office of the Chief Electoral Officer,
 - (iv.1) repealed 2019 c15 s35,
 - (v) the Ethics Commissioner with respect to the Office of the Ethics Commissioner,
 - (vi) the Information and Privacy Commissioner with respect to the Office of the Information and Privacy Commissioner,
 - (vii) the Child and Youth Advocate with respect to the Office of the Child and Youth Advocate,

- (viii) the Public Interest Commissioner with respect to the Office of the Public Interest Commissioner, and
- (ix) the Chief of Staff, Office of the Premier with respect to the Premier, the Office of the Premier, a minister or an office of a minister;
- (e) “designated officer” means the senior official designated by each chief officer to manage and investigate disclosures under this Act;
- (f) “disclosure”, except where the context requires otherwise, means a disclosure of wrongdoing made in good faith by an employee in accordance with this Act;
- (g) “employee” means, as the context requires,
 - (i) an individual employed by a department, a public entity, an office or a prescribed service provider,
 - (ii) an individual who has suffered a reprisal and is no longer employed by a department, a public entity, an office or a prescribed service provider, or
 - (iii) an individual or person or an individual or person within a class of individuals or persons, prescribed in the regulations as an individual or person to be treated as an employee for the purpose of this Act or a provision of this Act;
- (h) “individually identifying health information” means individually identifying health information within the meaning of the *Health Information Act*;
- (h.1) “office” means, subject to the regulations,
 - (i) an office of the Legislature,
 - (ii) an office of a member of the Legislative Assembly, and includes the member,
 - (iii) the Office of the Premier, and includes the Premier, and
 - (iv) an office of a minister, and includes the minister;
- (i) “office of the Legislature” means
 - (i) the Legislative Assembly Office,
 - (ii) the Office of the Auditor General,

- (iii) the Office of the Ombudsman,
- (iv) the Office of the Chief Electoral Officer,
- (iv.1) repealed 2019 c15 s35,
- (v) the Office of the Ethics Commissioner,
- (vi) the Office of the Information and Privacy Commissioner,
- (vii) the Office of the Child and Youth Advocate, and
- (viii) the Office of the Public Interest Commissioner;
- (j) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (j.1) “prescribed service provider” means any individual or any part or all of an organization, body or other person that is determined under the regulations made under section 4.2 to be a prescribed service provider;
- (k) “public entity” means any agency, board, commission, Crown corporation or other entity designated as a public entity in the regulations;
- (l) “reprisal” means a measure taken, directed or counselled contrary to section 24(2) or (3), or a reprisal referred to in section 26(4);
- (m) “Standing Committee” means the Standing Committee on Legislative Offices;
- (n) “wrongdoing” means a wrongdoing referred to in section 3 and, except in sections 32(2)(c), 33(1)(d) and (f) and 53.1 or as otherwise provided in the regulations, includes an alleged wrongdoing.

2012 cP-39.5 s1;2017 c11 s2;2018 c11 s15;2019 c15 s35

Application and purposes of Act

2(1) Subject to the regulations, this Act applies to the following:

- (a) departments;
- (b) offices;
- (c) public entities;
- (d) prescribed service providers.

(1.1) Nothing in this Act permits a member of the Legislative Assembly or a minister, including the Premier, to make a disclosure under this Act or a complaint of a reprisal under this Act.

(2) The purposes of this Act are

- (a) to facilitate the disclosure and investigation of significant and serious matters in or relating to departments, public entities, offices or prescribed service providers, that an employee believes may be unlawful, dangerous to the public or injurious to the public interest,
- (b) to protect employees who make those disclosures,
- (c) to manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals,
- (c.1) to provide for the determination of appropriate remedies concerning reprisals,
- (d) to promote public confidence in the administration of or services provided by departments, public entities, offices and prescribed service providers, and
- (e) any other purpose prescribed in the regulations.

2012 cP-39.5 s2;2017 c11 s3

Part 1 Wrongdoings

Wrongdoings to which this Act applies

3(1) This Act applies in respect of the following wrongdoings in or relating to departments, public entities, offices or prescribed service providers or relating to employees:

- (a) a contravention of an Act, a regulation made pursuant to an Act, an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;
- (b) an act or omission that creates
 - (i) a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or functions of an employee, or
 - (ii) a substantial and specific danger to the environment;

- (c) gross mismanagement, including an act or omission that is deliberate and that shows a reckless or wilful disregard for the proper management of
 - (i) public funds or a public asset,
 - (ii) the delivery of a public service, including the management or performance of
 - (A) a contract or arrangement identified or described in the regulations, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement, and
 - (B) the duties and powers resulting from an enactment identified or described in the regulations or any funds administered or provided as a result of the enactment,
- or
- (iii) employees, by a pattern of behaviour or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment or intimidation;
- (c.1) a wrongdoing prescribed in the regulations;
- (d) knowingly directing or counselling an individual to commit a wrongdoing mentioned in clauses (a) to (c.1).

(2) This Act applies only in respect of wrongdoings that occur after the coming into force of this Act.

2012 cP-39.5 s3;2017 c11 s4

4 Repealed 2017 c11 s5.

Part 1.1 Members of the Legislative Assembly and Their Offices

Parliamentary privileges and immunities saved

4.1(1) The Commissioner's exercise of powers and performance of duties under this Act is limited by and must conform to the rights, immunities, privileges and powers of the Legislative Assembly and of members of the Legislative Assembly.

(2) For the purposes of this section, the Commissioner and the Speaker of the Legislative Assembly, on behalf of the Legislative Assembly and its members, may establish a protocol respecting the Commissioner's exercise of powers and performance of duties under this Act in relation to the Legislative Assembly, members of the Legislative Assembly and the offices of members of the Legislative Assembly.

(3) Only the Speaker of the Legislative Assembly may determine whether a disclosure or a complaint of a reprisal involves a matter or document subject to parliamentary privilege, and therefore cannot be investigated, examined, produced or disclosed.

(4) A determination referred to in subsection (3) is final.

2017 c11 s6

Part 1.2 Prescribed Service Providers

Prescribed service provider regulations

4.2(1) The Lieutenant Governor in Council may, in addition to any applicable regulations made under section 36, make regulations

- (a) respecting the Commissioner's exercise of powers and performance of duties under this Act in relation to prescribed service providers;
- (b) for the purpose of section 1(j.1), determining that any individual or person, any part or all of an organization, body or other person or any class of individuals, persons, organizations or bodies is a prescribed service provider;
- (c) respecting activities that may be considered and activities that may not be considered to constitute a wrongdoing to which this Act applies in relation to prescribed service providers;
- (d) respecting the communication of information about this Act to employees of prescribed service providers;
- (e) respecting requests for advice about making a disclosure in relation to prescribed service providers;
- (f) respecting reprisal measures for the purposes of section 24(3);
- (g) respecting the making of a complaint of a reprisal to the Commissioner under section 25(2);
- (h) respecting measures that the Board may order in relation to a prescribed service provider under section 27.1(3)(f)(viii);

- (i) respecting the reporting and recommendations to which a prescribed service provider may or must be subject under this Act;
- (j) respecting the Commissioner's annual reporting in respect of prescribed service providers;
- (k) exempting prescribed service providers from the application of any provision or part of this Act.

(2) A regulation made under this section may apply to all prescribed service providers, to a class of prescribed service providers or to a part of a prescribed service provider, and there may be different regulations for different classes of prescribed service providers.

2017 c11 s6

Part 2 Disclosure Procedures for Departments, Public Entities and Offices

Procedures to manage and investigate disclosures

5(1) Every chief officer must establish and maintain, in accordance with this Act, written procedures, including time periods, for managing and investigating disclosures by employees for whom the chief officer is responsible.

(2) The procedures established under subsection (1) must include, at a minimum, the following:

- (a) procedures for receiving and reviewing disclosures, including setting time periods for making recommendations to the department, public entity or office of the Legislature respecting any corrective measures that should be taken;
- (b) procedures for referring a disclosure to another department, public entity or office of the Legislature if the disclosure would more appropriately be dealt with there;
- (c) procedures, consistent with section 30 and any regulations that apply, for referring a disclosure to the Commissioner if the designated officer reasonably believes that the matter to which the disclosure relates constitutes an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment;

- (d) procedures for reviewing and investigating disclosures in accordance with the principles of procedural fairness and natural justice;
 - (e) procedures for investigating other wrongdoings if, during the investigation of a disclosure, the designated officer has reason to believe that another wrongdoing has been committed or may be committed;
 - (f) procedures, consistent with section 30 and any regulations that apply, for referring an alleged offence if, during an investigation of a disclosure, the designated officer has reason to believe that an offence has been committed under an Act or regulation or under an Act or regulation of the Parliament of Canada;
 - (g) procedures, consistent with this Act and any regulations that apply, respecting the confidentiality of information collected in relation to disclosures and investigations, which procedures would apply unless there is an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment;
 - (h) procedures, consistent with this Act and any regulations that apply, for protecting the identity of individuals involved in the disclosure process, including the employee making the disclosure, individuals alleged to have committed the wrongdoings and witnesses, subject to any other Act or regulation and to the principles of procedural fairness and natural justice;
 - (i) procedures for reporting the outcomes of investigations of disclosures;
 - (j) procedures for enforcement and follow-up of any disciplinary action or corrective measures taken or directed pursuant to this Act;
 - (k) procedures respecting any other matter specified in the regulations.
- (3)** The Commissioner may request the chief officer to provide a copy of the procedures established under subsection (1) to the Commissioner.
- (4)** The Commissioner may review the procedures, including time periods, established by the chief officer under subsection (1) to ensure there is compliance with this Act and the regulations.

(5) If the Commissioner determines that the procedures that have been established under subsection (1) do not meet the criteria set out in subsections (1) and (2), the Commissioner must notify the chief officer and the employees for whom the chief officer is responsible that the procedures are unsatisfactory and that any future disclosures must be made directly to the Commissioner until new procedures are established by the chief officer and are approved by the Commissioner.

(6) If the Commissioner determines that no procedures have been established under subsection (1), the Commissioner

- (a) must notify the chief officer that procedures must be established, and
- (b) may, if the Commissioner considers it appropriate, provide information about the notification and the circumstances leading to the notification in the Commissioner's annual report for any year during which no procedures are established.

(7) Any procedures required to be established by the chief officer pursuant to subsection (5) or (6) must be submitted for review and approval by the Commissioner.

(8) Repealed 2017 c11 s8.

(9) A chief officer may submit the procedures required to be established under this section to the Commissioner at any time for review to ensure there is compliance with this Act and the regulations.

2012 cP-39.5 s5;2017 c11 s8

Information about Act to be communicated

6 Each chief officer must ensure that information about this Act and the procedures established under section 5 are widely communicated to the employees of the department, public entity or office for which the chief officer is responsible.

2012 cP-39.5 s6;2017 c11 s9

Designated officer

7(1) A chief officer may designate a senior official to be the designated officer for the purposes of managing and investigating disclosures.

(2) If no designation is made under subsection (1), the chief officer is the designated officer for the purposes of this Act.

Request for advice

8(1) An employee who is considering making a disclosure may request information or advice from the employee's supervisor, designated officer or chief officer or from the Commissioner.

(2) The supervisor, the designated officer, the chief officer or the Commissioner may require a request under subsection (1) to be in writing.

2012 cP-39.5 s8;2017 c11 s10

Disclosure concerning a department, public entity or office

9 If an employee of a department, public entity or office reasonably believes that the employee has information that could show that a wrongdoing has been committed or is about to be committed, or that could show that the employee has been asked to commit a wrongdoing, the employee may make a disclosure

- (a) to the employee's designated officer in accordance with the procedures established under section 5, and
- (b) subject to section 12, to the Commissioner in accordance with section 15.1.

2012 cP-39.5 s9;2017 c11 s11

10 and 11 Repealed 2017 c11 s12.

Disclosure to Auditor General re Commissioner or Ombudsman

12(1) If an employee of the Office of the Public Interest Commissioner is seeking advice or making a disclosure regarding that Office, the advice may be sought from, or the disclosure made to, the Auditor General.

(2) If the Legislative Assembly appoints the Ombudsman as the Commissioner pursuant to section 38(2) and an employee of the Office of the Ombudsman or of the Office of the Public Interest Commissioner is seeking advice or making a disclosure regarding the Office of the Ombudsman, the advice may be sought from, or the disclosure made to, the Auditor General.

(3) If a disclosure is made under subsection (1) or (2), the Auditor General

- (a) must carry out the responsibilities of the Commissioner under this Act, and
- (b) has all of the powers and functions of the Commissioner in relation to that disclosure under this Act.

Contents of disclosure

13 A disclosure must be in writing and must include the following information, if known:

- (a) a description of the wrongdoing;
- (b) the name of the individual or individuals alleged
 - (i) to have committed the wrongdoing, or
 - (ii) to be about to commit the wrongdoing;
- (c) the date of the wrongdoing;
- (d) whether a disclosure in respect of a wrongdoing has been made pursuant to the procedures established under section 5 by the department, public entity or office and whether a response has been received, and if so, a copy of the response;
- (e) any additional information that the designated officer or Commissioner may reasonably require in order to investigate the matters set out in the disclosure;
- (f) any other information prescribed in the regulations.

2012 cP-39.5 s13;2017 c11 s13

Consultation re disclosure

14(1) A designated officer may consult with the chief officer regarding the management and investigation of a disclosure.

(2) A designated officer may request advice from the Commissioner with respect to the management and investigation of a disclosure.

(3) The Commissioner may require a request for advice to be in writing.

15 Repealed 2017 c11 s14.

Part 2.1 Disclosure to the Commissioner

Disclosure to the Commissioner

15.1(1) An employee referred to in section 9 may make a disclosure directly to the Commissioner despite Part 2 and any provision in the procedures established under section 5 that states

- (a) that the decision of the department, public entity or office is final,
- (b) that no appeal lies in respect of the decision of the department, public entity or office, or
- (c) that the decision of the department, public entity or office may not be challenged, reviewed, quashed or called into question.

(2) If an employee referred to in section 9 has made a disclosure to the designated officer, the employee may also make a disclosure directly to the Commissioner even if the designated officer has made recommendations or concluded the investigation.

(3) Subject to the regulations, an employee of a prescribed service provider may make a disclosure to the Commissioner if the employee reasonably believes that the employee has information that could show that a wrongdoing has been committed or is about to be committed, or that could show that the employee has been asked to commit a wrongdoing.

(4) Subject to the regulations, a disclosure must be in writing and must include the information required under section 13.

(5) Subject to sections 4.1(3) and 30 and the regulations, the Commissioner may, as the Commissioner considers appropriate, proceed under this Part and Part 3 or refer a disclosure relating to a department, public entity or office to a designated officer to be dealt with in accordance with Part 2.

2017 c11 s15

Part 3 Investigations by the Commissioner

Purposes of investigation

16 The purposes of an investigation into a disclosure or a complaint of a reprisal under this Act are

- (a) to bring the wrongdoing or reprisal to the attention of the affected department, public entity, office or prescribed service provider,
- (b) to recommend corrective measures that should be taken, and
- (c) to promote public confidence in the administration of and services provided by departments, public entities, offices and prescribed service providers.

2012 cP-39.5 s16;2017 c11 s16

Commissioner to facilitate resolution

17 When an employee makes a disclosure to the Commissioner, the Commissioner may take any steps the Commissioner considers appropriate to help resolve the matter within the department, public entity, office or prescribed service provider.

2012 cP-39.5 s17;2017 c11 s17

Investigation by Commissioner

18(1) Subject to subsection (4), the Commissioner is responsible for investigating disclosures that the Commissioner receives under this Act.

(2) An investigation is to be conducted as informally as possible and within the time periods set out in the regulations, if any.

(3) The Commissioner must ensure that the right to procedural fairness and natural justice in an investigation is respected, including in respect of individuals making disclosures, individuals alleged to have committed a wrongdoing and witnesses.

(4) The Commissioner shall not investigate any decision, recommendation, act or omission made or done by any individual in the course of acting as a solicitor or Crown prosecutor in a department, public entity, office or prescribed service provider.

(5) to (7) Repealed 2017 c11 s18.

2012 cP-39.5 s18;2017 c11 s18

Access to information — generally

18.1(1) The Commissioner is at all reasonable times and for any purpose related to the exercise or performance of the Commissioner's powers and duties under this Act entitled to access to the records of, and electronic data processing equipment owned or leased by, a department, public entity, office or prescribed service provider.

(2) Present and former employees must give to the Commissioner any information, records or explanations that the Commissioner

considers necessary to enable the Commissioner to exercise or perform the Commissioner's powers and duties under this Act.

(3) The Commissioner, or a person employed or engaged by the Commissioner, may enter or be stationed in the premises of a department, public entity, office or prescribed service provider, and the department, public entity, office or prescribed service provider must provide the necessary accommodation, equipment and materials.

(4) The Commissioner may, in the course of an investigation,

- (a) require any record to be produced to the Commissioner, examine any information in a record, including personal information, individually identifying health information or financial information, and make copies of, take photographs of or otherwise record the information, and
- (b) require any person who, in the Commissioner's opinion, is able to provide any information, including personal information, individually identifying health information or financial information, relating to any disclosure being investigated by the Commissioner
 - (i) to give written or oral replies to questions,
 - (ii) to produce any books, records, reports, documents or other items, including electronic records and documents, and
 - (iii) to provide any other information requested by the Commissioner.

(5) When the Commissioner requires the production of a document, paper or thing under subsection (4), the Commissioner may require it to be produced at a place designated by the Commissioner and may require that it be left in the Commissioner's possession for the purposes of the Commissioner's investigation.

(6) When the Commissioner requires the production of a document, paper or thing under subsection (4), the Commissioner

- (a) must give a receipt for it to the person from whom it was taken,
- (b) may make copies of, take photographs of or otherwise record it,

- (c) on request, must return or provide a copy of the book, record, report or other document, including an electronic record or document and a record or document containing personal information, individually identifying health information or financial information, to the person from whom it was taken or to a person who is entitled to custody of it, and
- (d) must return the document, paper or thing to the person to whom the receipt was given when it has served the purposes for which it was taken.

2017 c11 s19

When investigation not required

19(1) The Commissioner is not required to investigate a disclosure or, if an investigation has been initiated, may cease the investigation if, in the opinion of the Commissioner,

- (a) the subject-matter of the disclosure could more appropriately be dealt with, initially or completely, according to a procedure provided for under this or another Act or a regulation,
- (b) the subject-matter of the disclosure is being investigated in accordance with procedures established under section 5,
- (c) the disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement or employment agreement,
- (d) the disclosure is frivolous or vexatious, has not been made in good faith or does not deal with a wrongdoing,
- (e) the disclosure relates to a decision, action or matter that results from a balanced and informed decision-making process on a public policy or operational issue,
- (f) the disclosure does not provide adequate particulars about the wrongdoing as required by section 13 to permit the conduct of a fair and effective investigation, or
- (g) there is another valid reason for not investigating the disclosure.

(1.1) Before beginning an investigation into a disclosure where the disclosure alleges gross mismanagement in relation to employees, the Commissioner must be satisfied that all applicable mechanisms, including any human resource processes or processes under a collective agreement, to address bullying, harassment or

intimidation within the department, public entity, office or prescribed service provider have been used or considered.

(2) The Commissioner is not required to investigate a disclosure or, if an investigation has been initiated, may discontinue the investigation

- (a) if more than 2 years has passed since the date that the wrongdoing was discovered;
- (b) in any other circumstances prescribed in the regulations.

(3) If the Commissioner decides not to investigate or to discontinue an investigation, the Commissioner must, in writing, inform the employee who made the disclosure and the affected department, public entity, office or prescribed service provider

- (a) of the Commissioner's decision, and
- (b) of the reasons for the decision.

(4) If the Commissioner decides not to investigate a matter because subsection (1)(b) applies, the Commissioner may, within any period of time determined by the Commissioner, request from the designated officer a report on the status of an investigation into the matter concerning a department, public entity or office.

2012 cP-39.5 s19;2017 c11 s20

Investigating other wrongdoings

20(1) Subject to subsection (2), if, during an investigation, the Commissioner has reason to believe that another wrongdoing has been committed or may have been committed, the Commissioner may investigate that wrongdoing in accordance with this Act.

(2) and **(3)** Repealed 2017 c11 s21.

2012 cP-39.5 s20;2017 c11 s21

Allegations by others of wrongdoing

21 If the Commissioner receives an allegation of wrongdoing that has been made anonymously or by an individual who is not an employee, the Commissioner may, as the Commissioner considers appropriate, subject to any regulations that apply,

- (a) investigate and report the matter in the same manner as a disclosure,
- (b) while maintaining the anonymity of the individual, forward the matter to the designated officer of the department, public entity or office to which the allegation relates for

investigation in accordance with the procedures established under section 5, or

- (c) refuse to investigate or, if an investigation has been initiated, cease the investigation, in the same manner as with respect to a disclosure.

2012 cP-39.5 s21;2017 c11 s22

Commissioner's report re investigation

22(1) On completing an investigation, the Commissioner must prepare a report that sets out

- (a) the Commissioner's findings and reasons for those findings, and
- (b) any recommendations the Commissioner considers appropriate respecting the disclosure and the wrongdoing.

(2) Subject to section 23, the Commissioner may request that the affected department, public entity, office or prescribed service provider notify the Commissioner, within any reasonable period of time that the Commissioner specifies, of the steps that the department, public entity, office or prescribed service provider has taken or proposes to take to give effect to the Commissioner's recommendations.

(3) The Commissioner must provide a copy of the report referred to in subsection (1)

- (a) to the chief officer and the designated officer of the affected department, public entity or office, or
- (b) to the affected prescribed service provider in accordance with the regulations made under section 4.2(1)(i).

(4) The Commissioner must notify the individual who made the disclosure that a report pursuant to this section has been made and provide the individual with any information respecting the report that the Commissioner considers appropriate in the circumstances.

(5) If the Commissioner believes that the department, public entity, office or public service provider has not appropriately followed up on the Commissioner's recommendations, if any, or did not co-operate in the Commissioner's investigation under this Act, the Commissioner may make a report on the matter

- (a) in the case of a department, to the Clerk of the Executive Council,

- (b) in the case of a public entity, to the minister responsible, if any, and to the board of directors or the person designated to act as the head of the public entity, if any,
- (c) in the case of an office of the Legislature or an office of a member of the Legislative Assembly, to the Speaker of the Legislative Assembly, and the Speaker of the Legislative Assembly must lay the report before the Legislative Assembly for review, referral to a committee of the Legislative Assembly or other action as the Legislative Assembly considers appropriate,
- (d) subject to clause (f), in the case of a minister's office, to the minister,
- (e) subject to clause (g), in the case of the Office of the Premier, to the Premier,
- (f) in the case of a minister or the Clerk of the Executive Council, to the Premier,
- (g) in the case of the Premier, by tabling a report in the Legislative Assembly, or
- (h) in the case of a prescribed service provider, in accordance with the regulations made under section 4.2(1)(i).

2012 cP-39.5 s22;2017 c11 s23

If subject-matter involves chief officer or designated officer

23(1) If the subject-matter of an investigation involves the chief officer or the designated officer, the Commissioner must, instead of providing a copy of the report referred to in section 22(1) to the chief officer and the designated officer under section 22(3), provide a copy of the report

- (a) in the case of a department, to the Clerk of the Executive Council,
- (b) in the case of the Office of the Premier or an office of a minister, to the Premier,
- (c) in the case of a public entity, to the minister responsible, if any, and to the board of directors or the person designated to act as the head of the public entity, if any, and
- (d) in the case of an office of the Legislature or an office of a member of the Legislative Assembly, to the Speaker of the Legislative Assembly, and the Speaker of the Legislative Assembly must lay the report before the Legislative

Assembly for review, referral to a committee of the Legislative Assembly or other action as the Legislative Assembly considers appropriate.

(2) The Commissioner may request a person provided with a copy of a report under subsection (1) to notify the Commissioner, within any reasonable period of time that the Commissioner specifies, of the steps that the department, public entity or office proposes to take or has taken to give effect to the Commissioner's recommendations.

(3) If the Commissioner believes that the person has not appropriately followed up on the Commissioner's recommendations, if any, the Commissioner may make a report on the matter

- (a) in the case of the Clerk of the Executive Council, to the Premier,
- (b) in the case of the minister responsible for the public entity, if any, or the board of directors or the person designated to act as the head of the public entity, if any, to the Premier, and
- (c) in the case of the Premier or the Speaker of the Legislative Assembly, by tabling a report in the Legislative Assembly.

2012 cP-39.5 s23;2017 c11 s24

Part 4 Reprisals

Reprisal

24(1) This section applies to an employee or a prescribed service provider who has, in good faith,

- (a) requested advice about making a disclosure as described in section 8 or, in the case of an employee of a prescribed service provider, the regulations made under Part 1.2, whether or not the employee made a disclosure,
- (b) made a disclosure under this Act,
- (c) co-operated in an investigation under this Act,
- (d) declined to participate in a wrongdoing, or
- (e) done anything in accordance with this Act.

(2) No person shall take or direct, or counsel or direct a person to take or direct, any of the following measures against an employee of a department, a public entity, an office of the Legislature, the

Office of the Premier, an office of a minister or a prescribed service provider for the reason that the employee took an action referred to in subsection (1):

- (a) a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand;
- (b) any measure, other than one mentioned in clause (a), that adversely affects the employee's employment or working conditions;
- (c) a threat to take any of the measures mentioned in clause (a) or (b).

(3) Subject to the regulations, no person shall take or direct, or counsel or direct a person to take or direct, any measure prescribed in the regulations against a prescribed service provider for the reason that the prescribed service provider or an employee of the prescribed service provider took an action referred to in subsection (1).

2012 cP-39.5 s24;2017 c11 s25

Complaints of reprisals

25(1) Subject to subsection (3), an employee may make a written complaint to the Commissioner if the employee alleges that a reprisal has been taken, directed or counselled against the employee contrary to section 24.

(2) A prescribed service provider may make a written complaint to the Commissioner if the prescribed service provider alleges that a reprisal has been taken, directed or counselled against the prescribed service provider contrary to section 24.

(3) An employee of the office of the Public Interest Commissioner, and if the Legislative Assembly appoints the Ombudsman as the Commissioner pursuant to section 38(2), an employee of the Office of the Ombudsman, may make a written complaint to the Auditor General if the employee alleges that a reprisal has been taken, directed or counselled against the employee.

(4) The Auditor General has, in relation to a complaint referred to in subsection (3), all the responsibilities of the Commissioner under this Act and all of the powers and functions of the Commissioner.

(5) A complaint under this section must be in the prescribed form.

2012 cP-39.5 s25;2017 c11 s26

Managing and investigating complaints of reprisals

26(1) If a complaint is made to the Commissioner under section 25(1) or (2), the Commissioner must, subject to the regulations, manage and investigate the complaint in the same manner as a disclosure.

(2) If a complaint is made to the Commissioner under section 25(1) with respect to the Board and the Commissioner finds that a reprisal has been taken, directed or counselled contrary to section 24, the Commissioner must determine the appropriate remedy.

(3) Sections 27.1(3) and (4), 27.2 and 27.4 apply, with any necessary modifications, for the purposes of a determination under subsection (2).

(4) A complaint of a reprisal may be made to the Commissioner with respect to the office of a member of the Legislative Assembly and

- (a) section 24(1) and (2) apply for the purpose of determining whether a reprisal has occurred,
- (b) the Commissioner must manage and investigate the complaint in the same manner as a disclosure regarding the office of a member of the Legislative Assembly, and
- (c) notwithstanding section 27.1, if the Commissioner finds that a reprisal has been taken, directed or counselled, the Commissioner must prepare and submit to the Speaker of the Legislative Assembly a report that sets out
 - (i) the Commissioner's findings and reasons for those findings, and
 - (ii) the Commissioner's recommendations, if any.

(5) The Speaker of the Legislative Assembly must lay the report referred to in subsection (4)(c) before the Legislative Assembly, if it is then sitting, or if it is not then sitting, within 15 days after the commencement of the next sitting, for review, referral to a committee of the Legislative Assembly or other action as the Legislative Assembly considers appropriate.

(6) Subject to section 30, if the Commissioner, the Auditor General, the Board or the Speaker of the Legislative Assembly, as the case may be, considers that the investigation or referral of a complaint under this Part is duplicative or may result in a double remedy or payment in respect of the complaint or that the complaint or any part of the complaint would more appropriately

be dealt with in another proceeding or under any other procedure under any other Act or a collective agreement, that person may

- (a) refer the complaint under this Part to another procedure under any other Act or a collective agreement in respect of the measure alleged to constitute a reprisal,
- (b) defer the investigation of the complaint of a reprisal or the issuing of a report under this Part, or the determination of a remedy, pending the resolution of any court proceeding or any procedure under any other Act or a collective agreement in respect of the measure alleged to constitute a reprisal, and
- (c) discontinue the proceedings under this Part in respect of the complaint following the award of an appropriate remedy or payment in another proceeding or under any other procedure under any other Act or a collective agreement in respect of the measure alleged to constitute a reprisal.

2012 cP-39.5 s26;2017 c11 s27

Reasonable human resource management decisions

27 No action lies against a department, public entity, office or prescribed service provider, or an employee of any of them, for making a reasonable human resource management decision in good faith.

2012 cP-39.5 s27;2017 c11 s28

Referral to the Board for remedy

27.1(1) If, on completing an investigation, the Commissioner finds that a reprisal has been taken, directed or counselled contrary to section 24, the Commissioner must, subject to section 26(2) and (4), refer the decision and reasons to the Board for a determination as to the appropriate remedy in accordance with this section.

- (2) The chair of the Board may establish
 - (a) hearing panels, consisting of either the chair or a vice-chair of the Board, to conduct hearings under this Act, and
 - (b) administrative panels, consisting of 3 members from among the members of the Board, to conduct the Board's business under this Act, including the making of rules and any reconsideration referred to in subsection (3)(g).
- (3) The Board may, for the purposes of this Act,
 - (a) request and receive any submissions, including supplementary reasons or other information from the Commissioner, that it considers necessary, either itself or through its officers;

- (b) conduct any hearings that it considers necessary;
- (c) make rules
 - (i) of procedure respecting referrals, submissions and hearings,
 - (ii) for the giving of notice and the service of documents, and
 - (iii) for any other matters as it considers necessary;
- (d) through its members, officers and other representatives undertake efforts to assist the parties to a proceeding before the Board to settle the matter;
- (e) make or issue any interim orders, decisions, directives or declarations it considers necessary pending the final determination of any matter before the Board;
- (f) make a final determination of any matter before the Board and order one or more of the following measures to be taken by a department, public entity, office, prescribed service provider, employee or person found to have taken, directed or counselled a reprisal contrary to section 24:
 - (i) permit the employee to return to his or her duties;
 - (ii) reinstate the employee or, if the Board considers that reinstatement is not advisable, pay compensation to the employee in lieu of reinstatement;
 - (iii) pay compensation for lost remuneration to the employee in an amount not greater than the remuneration that the Board considers would, but for the reprisal, have been paid to the employee;
 - (iv) pay an amount to the employee equal to any expenses and any other financial losses that the employee has incurred as a direct result of the reprisal, including the employee's legal costs on a solicitor-client basis related to, occasioned by or attributable to the reprisal;
 - (v) rescind any form of discipline or reprimand or cease an activity that constitutes the reprisal;
 - (vi) rectify a situation resulting from the reprisal;
 - (vii) do or refrain from doing anything in order to remedy any consequence of the reprisal;

- (viii) in the case of a prescribed service provider, take any measures required or authorized by the regulations;
 - (g) on application, or on the Board's own motion, reconsider any determination, decision, order, interim order, directive or declaration made by it and vary, revoke or affirm the determination, decision, order, interim order, directive or declaration.
- (4) Except as provided in subsection (3)(g), an order under subsection (3)(f) is final and binding.
- (5) The Board must provide to the Commissioner, in respect of a complaint referred to the Board under section 26,
- (a) a notice concerning every matter referred, deferred or discontinued under section 26,
 - (b) a copy of every order issued under subsection (3)(f),
 - (c) if no remedy is awarded in respect of a determination under subsection (3)(f), a copy of the Board's reasons for the determination, and
 - (d) a copy of every order issued under subsection (3)(g) that varies, revokes or affirms a determination or an order issued under subsection (3)(f).

2017 c11 s29

Board powers re evidence

- 27.2(1)** For the purposes of this Act, officers and members of the Board may administer oaths.
- (2) Subject to subsection (3), the Board may, by order, summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things the Board considers requisite to the full investigation and consideration of matters under this Act within its jurisdiction in the same manner as a court of record may in civil cases.
- (3) If any person fails to comply with a Board order made under subsection (2), or conducts himself or herself in a manner that may be in contempt of the Board or its proceedings, the Board may apply to the Court of Queen's Bench for an order directing compliance with the Board's order or restraining any conduct found by the Court to be in contempt of the Board or its proceedings.

(4) On an application under subsection (3), the Court may grant any order that, in the opinion of the Court, is necessary to enable the Board to carry out its duties.

(5) The Board

- (a) may accept any oral or written evidence that it, in its discretion, considers proper, whether admissible in a court of law or not, and
- (b) is not bound by the law of evidence applicable to judicial proceedings.

2017 c11 s29

Various issues relating to the Board

27.3(1) For the purposes of sections 27.1 and 27.2,

- (a) Part 4.1 applies to the Board, and
- (b) the Board, its members and officers and persons employed in respect of the Board's activities under this Act have all the immunities of the Commissioner under this Act.

(2) Despite any other Act or law, the Board, its members and officers and persons employed in respect of the Board's activities under this Act are not compellable to give evidence concerning any record or information that is obtained or comes to their knowledge as the result of the exercise of the powers, the performance of the duties or the carrying out of functions pursuant to sections 27.1 and 27.2, or to produce anything containing that record or information, except for the purposes of

- (a) the investigation of a disclosure of wrongdoing or a complaint of a reprisal regarding the Board,
- (b) the prosecution of an offence under this Act, and
- (c) the record of proceedings in the judicial review of a decision of the Board pursuant to this Act.

2017 c11 s29

Orders and enforcement

27.4(1) An order that the Board makes under this Act may be issued on its behalf by the chair or a vice-chair of the Board.

(2) An order purporting to be signed by the chair or a vice-chair on behalf of the Board shall be received in any court as proof, in the absence of evidence to the contrary,

- (a) of the order and its contents, and

(b) that the persons signing the order were authorized to do so, without proof of the appointment or signature of the chair or vice-chair.

(3) A copy of an order having endorsed on it a certificate purporting to be signed by an officer of the Board stating that the copy is a true copy shall be received in any court as proof, in the absence of evidence to the contrary, of the order and its contents, without proof of the appointment or signature of the officer.

(4) If any order made by the Board is not complied with, an employee, department, public entity, office, prescribed service provider or other person affected by the order, or the Board on its own initiative, may, after 30 days from the date on which the order is made or reasons are given in respect of it or by the date provided in it for compliance, whichever is the latest date, file a copy of the order with the clerk of the Court of Queen's Bench, and on being filed, the order is enforceable as a judgment or order of the Court.

2017 c11 s29

Part 4.1 Collection, Use and Disclosure of Information

Disclosure despite other Acts

28 Subject to this Part, a disclosure or a complaint of a reprisal may be made under this Act despite a provision in another Act or regulation that prohibits or restricts disclosure of the information necessary to make the disclosure or complaint of a reprisal.

2017 c11 s30

Where disclosure restrictions continue to apply

28.1(1) Despite section 28, nothing in this Act authorizes the disclosure of

- (a) information or documents that would disclose the deliberations of the Executive Council or a committee of the Executive Council or the proceedings of any of them,
- (b) information or documents that are protected by solicitor-client privilege or litigation privilege, or
- (c) any information, document or matter or any class of information, documents or matters prescribed in the regulations as information, documents or matters that must not be disclosed.

(2) Where a disclosure or a complaint of a reprisal involves personal information, individually identifying health information or

confidential information, the employee who makes the disclosure or submits the complaint of a reprisal must take reasonable precautions to ensure that no more information is disclosed than is necessary to make the disclosure or complaint of a reprisal.

2017 c11 s30

Other obligations to report not affected

28.2 Nothing in this Act relating to the making of a disclosure or a complaint of a reprisal is to be construed as affecting an obligation of an employee or a person who makes the disclosure or submits the complaint of a reprisal to disclose, report or otherwise give notice of a matter under another Act or regulation.

2017 c11 s30

Authority to collect, use and disclose information

29(1) A designated officer, a chief officer and the Commissioner may, subject to the regulations, collect, directly or indirectly, use and disclose personal information, individually identifying health information and any other information that is considered necessary to manage and investigate disclosures and complaints of reprisal under this Act.

(2) Nothing in this Act authorizes a chief officer or the Commissioner, in an annual report referred to in section 32 or 33,

- (a) to publicly identify an employee who requested advice about making a disclosure, made a disclosure or submitted a complaint of a reprisal,
- (b) to publicly identify an individual referred to in section 21, or
- (c) to publicly disclose individually identifying health information.

(3) Subject to subsection (2), the Commissioner may disclose information, including personal information, if in the Commissioner's opinion the public interest in making the disclosure clearly outweighs the potential harm.

2017 c11 s30

Issues and notice re disclosure of information

29.1(1) Except where this Act or the regulations provide otherwise, this Act prevails to the extent of any inconsistency or conflict with the *Freedom of Information and Protection of Privacy Act* or the *Health Information Act* or any other Act or regulation prescribed in the regulations for the purposes of this section.

(2) If the Commissioner receives individually identifying health information in connection with a disclosure or a complaint of a reprisal, or during an investigation under this Act, the

Commissioner must use reasonable efforts to inform the identified individual that the Commissioner received the health information, that the disclosure relates to an investigation under this Act, and that any further disclosure of the individually identifying health information is governed by this Act.

2017 c11 s30

Disclosures involving a possible offence or an imminent risk

30(1) If a chief officer, a designated officer or, during an investigation, the Commissioner has reason to believe that an offence has been committed under an Act or regulation or under an Act or regulation of the Parliament of Canada, that person must, as soon as reasonably practicable, report the alleged offence to a law enforcement agency and to the Minister of Justice and Solicitor General.

(2) With respect to a disclosure made under the procedures described in section 5(2)(c) or a disclosure with respect to a matter that the chief officer, the designated officer or the Commissioner reasonably believes could constitute an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment, that person must disclose the matter

- (a) to an appropriate law enforcement agency,
- (b) in the case of a health-related matter, to the Chief Medical Officer of Health appointed under section 13 of the *Public Health Act*,
- (c) to the department, public entity, office or prescribed service provider responsible for managing, controlling or containing the risk, if any, and
- (d) to a person identified in the procedures described in section 5(2)(c) or a person prescribed in the regulations for the purposes of this clause.

(3) The chief officer, designated officer or Commissioner, as the case may be,

- (a) must suspend the investigation of a disclosure or complaint of a reprisal reported under subsection (1) or disclosed under subsection (2)(a),
- (b) may suspend the investigation of any other disclosure or complaint referred to in this section, and

- (c) may resume a suspended investigation only after any charge relating to an alleged offence, or any investigation by a law enforcement agency or the Minister of Justice and Solicitor General, has been finally disposed of.

2017 c11 s30

Part 5 General Matters

Exemption

31(1) The Commissioner may, in accordance with the regulations, exempt any person, class of persons, public entity, information, record or thing from the application of all or any portion of this Act or the regulations.

(2) The Commissioner may impose any terms and conditions the Commissioner considers appropriate on any exemption provided for under subsection (1).

(3) The Commissioner must provide reasons for giving an exemption under this section and must ensure the exemption, including any terms or conditions imposed, and the reasons for giving the exemption are made publicly available.

Chief officer's annual report

32(1) Every chief officer must prepare a report annually on all disclosures made or referred to the designated officer of the department, public entity or office for which the chief officer is responsible.

(2) The report under subsection (1) must include the following information:

- (a) the number of disclosures received by or referred to the designated officer and the number of disclosures acted on, and the number of disclosures not acted on, by the designated officer;
- (b) the number of investigations commenced by the designated officer;
- (c) in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and
 - (i) any recommendations made or corrective measures taken in relation to the wrongdoing, and
 - (ii) if the department, public entity or office to which the recommendations relate has not taken corrective

measures in relation to the wrongdoing, the reasons provided.

(3) The report under subsection (1) must be included in the annual report of the department, public entity or office if the annual report is made publicly available, and if the annual report is not made publicly available, the chief officer must make the report under subsection (1) available to the public on request.

2012 cP-39.5 s32;2017 c11 s32

Commissioner's annual report

33(1) The Commissioner must report annually to the Legislative Assembly on the exercise and performance of the Commissioner's functions and duties under this Act, setting out

- (a) the number of general inquiries made to the Commissioner relating to this Act,
- (b) the number of disclosures received by the Commissioner under this Act, the number of disclosures acted on and the number of disclosures not acted on by the Commissioner,
- (b.1) the number of disclosures referred by the Commissioner to a designated officer for investigation in accordance with Part 2 and the number of investigation outcomes, enforcement activities or other follow-up reported concerning those disclosures,
- (c) the number of investigations commenced by the Commissioner under this Act,
- (d) in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations made,
- (d.1) the number of recommendations the Commissioner has made, and
 - (i) whether the departments, public entities, offices or prescribed service providers to which the recommendations relate have fully implemented the recommendations or taken any corrective measures, and
 - (ii) if the departments, public entities, offices or prescribed service providers to which the recommendations relate have not fully implemented the recommendations or taken any corrective measures, the reasons provided,
- (e) the number of complaints of reprisals received by the Commissioner under this Act, the number of reprisals the

Commissioner finds to have been taken, directed or counselled contrary to section 24 and a description of the reprisals,

- (e.1) the number of complaints of reprisals with respect to which the Commissioner finds that no reprisal was taken, directed or counselled,
- (e.2) the number of reprisals in or respecting the office of a member of the Legislative Assembly that the Commissioner finds to have been taken, directed or counselled contrary to section 24, a description of the reprisals and any recommendations provided to the Speaker of the Legislative Assembly and the resulting corrective measures taken, if any,
- (e.3) the number of remedial orders made by the Board, a description of each remedy awarded, the number of referrals for which no remedy was awarded and the reasons why no remedy was awarded,
- (e.4) in the case of a prosecution under this Act, a description of the offence and any penalty imposed in relation to the offence,
- (f) whether, in the opinion of the Commissioner, there are any systemic problems that may give rise to or have given rise to wrongdoings, and
- (g) any recommendations for improvement that the Commissioner considers appropriate.

(2) The report under subsection (1) must be given to the Speaker of the Legislative Assembly, who must table a copy of it in the Legislative Assembly within 15 days after receiving it if the Legislative Assembly is then sitting or, if it is not, within 15 days after the start of the next sitting.

(3) Where it is in the public interest to do so, the Commissioner may publish a special report relating to any matter within the scope of the Commissioner's responsibilities under this Act, including a report referring to and commenting on any particular matter investigated by the Commissioner.

2012 cP-39.5 s33;2017 c11 s33

Reports at request of committee or the Lieutenant Governor in Council

34(1) A committee of the Legislative Assembly may, at any time, refer to the Commissioner for investigation and report any petition

or matter that is before the committee for consideration that may relate to a wrongdoing to which this Act applies.

(2) The Commissioner must

- (a) subject to any special directions of the committee, investigate the petition or matter referred to the Commissioner insofar as it is within the scope of the Commissioner's responsibilities pursuant to this Act, and
- (b) make any report to the committee that the Commissioner thinks fit.

(3) The Lieutenant Governor in Council may, at any time, refer to the Commissioner for investigation and report any matter that is within the scope of the Commissioner's responsibilities pursuant to this Act.

(4) The Commissioner must

- (a) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to the Commissioner insofar as it is within the scope of the Commissioner's responsibilities pursuant to this Act, and
- (b) make any report to the Lieutenant Governor in Council that the Commissioner thinks fit.

Financing of operations

35(1) The Commissioner must submit to the Standing Committee in respect of each fiscal year an estimate of the public money that will be required to be provided by the Legislature to defray the several charges and expenses of the Office of the Public Interest Commissioner in that fiscal year.

(2) The Standing Committee must review each estimate submitted pursuant to subsection (1), and on the completion of the review, the chair of the Standing Committee must transmit the estimate to the President of Treasury Board and Minister of Finance for presentation to the Legislative Assembly.

(3) If at any time that the Legislative Assembly is not in session the Standing Committee, or if there is no Standing Committee, the President of Treasury Board and Minister of Finance,

- (a) reports that the Commissioner has certified that, in the public interest, an expenditure of public money is urgently required in respect of any matter pertaining to the Office of the Public Interest Commissioner, and

- (b) reports that either
- (i) there is no supply vote under which an expenditure with respect to that matter may be made, or
 - (ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

(4) For the purposes of subsection (3), when the Legislative Assembly is adjourned for a period of more than 14 days, the Assembly is deemed not to be in session during the period of the adjournment.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the *Financial Administration Act* for the fiscal year in which the special warrant is signed.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not to be in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the Public Service of Alberta.

Regulations

36(1) The Lieutenant Governor in Council may make regulations

- (a) designating entities, including entities that receive all or a substantial part of their operating funding from the Government, as public entities for the purposes of this Act and respecting the application of all or any portion of this Act to those public entities;

- (b) respecting, for the purpose of section 1(g)(iii), individuals or persons or classes of individuals or persons to be treated as employees for the purposes of this Act or any portion of this Act;
- (c) prescribing additional wrongdoings for the purposes of section 3(1)(c.1);
- (d) respecting other functions the Commissioner may or must perform;
- (e) prescribing additional purposes of this Act;
- (f) prescribing individuals as chief officers for the purposes of section 1(a.1)(iii);
- (g) respecting gross mismanagement, including regulations identifying or describing
 - (i) public funds, public assets or the delivery of public services to which this Act applies,
 - (ii) contracts or arrangements to which this Act applies, or
 - (iii) enactments to which this Act applies;
- (h) respecting the procedures to be followed by designated officers and by the Commissioner in managing and investigating disclosures and reporting the outcome of investigations, including setting time limits for corrective measures to be taken;
- (i) respecting disclosures to the Commissioner, including the allegations of wrongdoing referred to in section 21, and the circumstances and procedure for making and receiving a disclosure or an allegation of wrongdoing;
- (j) prescribing other information that may or must be included in a disclosure;
- (k) respecting investigations and any duties, powers, measures, methods or requirements not fully or not sufficiently provided for in Part 1.2 that are considered necessary to ensure that this Act is fully and appropriately implemented;
- (l) respecting, for the purposes of sections 5(2)(c) and 30(2)(d), the procedures for referring a matter that constitutes an imminent risk of a substantial or specific danger to the life, health or safety of individuals or to the environment,

- including persons to whom the matter may be referred and the time limit for referring those matters;
- (m) prescribing circumstances in which the Commissioner is not required to investigate a disclosure;
 - (n) respecting the time limits within which an investigation by the Commissioner must be conducted;
 - (o) respecting the reports referred to in section 22(5) or 23(3);
 - (p) establishing procedures, including time limits, for receiving, managing and investigating a complaint of a reprisal;
 - (q) respecting the content to be included in a complaint of a reprisal;
 - (r) prescribing the form for making a complaint of a reprisal;
 - (s) respecting the powers, duties and procedure, including time limits, that apply concerning the determination of appropriate remedies for reprisals;
 - (t) prescribing the circumstances in which the Commissioner is not required to investigate a complaint of a reprisal;
 - (u) respecting the content to be included in the decisions and reasons referred to in section 27.1;
 - (v) prescribing any information, document or matter or classes of information, documents or matters that must not be included in a disclosure under this Act;
 - (w) respecting the collection, use and disclosure of information, including personal information, individually identifying health information or confidential information, for the purposes of this Act;
 - (x) respecting the confidentiality of information collected concerning disclosures and complaints of reprisal;
 - (y) respecting procedures for protecting the identity of individuals involved in a disclosure, a complaint of a reprisal or an investigation, including the employee making the disclosure, individuals alleged to have committed the wrongdoings and witnesses;
 - (z) respecting disclosure restrictions concerning any information, document or matter or any class of information, documents or matters for the purposes of section 28.1(1)(c);

- (aa) prescribing Acts or regulations for the purposes of section 29.1(1);
- (bb) prescribing Acts or regulations to which this Act applies in whole or in part;
- (cc) respecting the exemption of any person, class of persons, public entity, office, prescribed service provider, activity, information, record or thing from the application of all or any provision of this Act;
- (dd) respecting the Commissioner's annual report referred to in section 33, including any powers to be exercised or duties to be performed by the Commissioner when there is a change of government;
- (ee) respecting the legal, disciplinary and corrective actions to which a public entity, prescribed service provider, employee, appointee or other person who commits a wrongdoing may or must be subject;
- (ff) respecting any duties, powers, measures, methods or requirements not fully or not sufficiently provided for in this Act that are considered necessary to ensure that this Act is fully and appropriately implemented;
- (gg) defining any word or phrase used but not defined in this Act.

(2) A regulation made under this section may apply to all persons, organizations or bodies or to a class of persons, organizations or bodies to which this Act applies, and there may be different regulations for different classes of such persons, organizations or bodies.

2012 cP-39.5 s36;2017 c11 s34

Review of Act

37 Within 2 years after this Act comes into force and every 5 years after that, a special committee established by the Legislative Assembly must begin a comprehensive review of this Act and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

Part 6 Office of the Public Interest Commissioner

Appointment of Public Interest Commissioner

38(1) Subject to subsections (2) and (5), the Lieutenant Governor in Council, on the recommendation of the Legislative Assembly, must appoint a Public Interest Commissioner to carry out the duties and functions set out in this Act.

(2) Notwithstanding section 3(1) of the *Ombudsman Act*, the Legislative Assembly may, by resolution, appoint the Ombudsman as the Commissioner.

(3) The Commissioner is an officer of the Legislature.

(4) The Commissioner may not be a member of the Legislative Assembly.

(5) For the purposes of appointing the first Commissioner, if the Legislative Assembly is not sitting, the Lieutenant Governor in Council on the recommendation of the Standing Committee may appoint a Commissioner, and unless the office sooner becomes vacant, the individual appointed holds office until the appointment is confirmed by the Legislative Assembly or a successor in appointed under subsection (1) or (2).

Term of office

39(1) Except as provided for in section 40, the Commissioner holds office for a term not exceeding 5 years.

(2) An individual holding office as Commissioner continues to hold office after the expiry of that individual's term of office until that individual is reappointed, a successor is appointed or a period of 6 months has expired, whichever occurs first.

(3) An individual is eligible for reappointment as Commissioner.

Resignation, removal or suspension of Commissioner

40(1) The Commissioner may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from Alberta, by notifying the Clerk of the Legislative Assembly.

(2) The Lieutenant Governor in Council must remove the Commissioner from office or suspend the Commissioner for cause or incapacity on the recommendation of the Legislative Assembly.

(3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the Commissioner for cause or incapacity on the recommendation of the Standing Committee.

Acting Commissioner

41(1) The Lieutenant Governor in Council, on the recommendation of the Standing Committee, may appoint an acting Commissioner if

- (a) the office of Commissioner is or becomes vacant when the Legislative Assembly is not sitting,
- (b) the Commissioner is suspended when the Legislative Assembly is not sitting, or
- (c) the Commissioner is removed from office or suspended or the office of the Commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation to appoint the Commissioner is made by the Assembly under section 38 before the end of the sitting.

(2) The Lieutenant Governor in Council may appoint an acting Commissioner if the Commissioner is temporarily absent because of illness or for another reason.

(3) An acting Commissioner holds office until

- (a) an individual is appointed as Commissioner under section 38(1) or (2),
- (b) the suspension of the Commissioner ends, or
- (c) the Commissioner returns to office after a temporary absence.

Remuneration

42 The Commissioner must be remunerated as determined by the Standing Committee, and the Standing Committee must review that remuneration at least once a year.

Oath

43(1) The Commissioner must, before beginning the duties and functions of office, take an oath to faithfully and impartially perform the duties and functions of the office and not to disclose any information received by the Office of the Public Interest Commissioner under this Act except as provided in this Act.

(2) The oath must be administered by the Speaker of the Legislative Assembly or the Clerk of the Legislative Assembly.

Office of the Public Interest Commissioner

44(1) There may be a part of the public service of Alberta called the Office of the Public Interest Commissioner consisting of the Commissioner and the individuals employed pursuant to the *Public Service Act* that are necessary to assist the Commissioner in carrying out the Commissioner's duties and functions under this or any other Act or regulation.

(2) The Commissioner may engage the services of any persons necessary to assist the Commissioner in carrying out the Commissioner's duties and functions.

(3) On the recommendation of the Commissioner, the Standing Committee may order that

- (a) any regulation, order or directive made under the *Financial Administration Act*,
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*, or
- (c) any regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act*,

does not apply to, or is varied in respect of, the Office of the Public Interest Commissioner or any particular employee or class of employees in that Office.

(4) An order made under subsection (3)(a) operates despite section 2 of the *Financial Administration Act*.

(4.1) An order made under subsection (3)(c) in relation to a regulation, order, determination, direction or other decision under the *Public Sector Compensation Transparency Act* operates notwithstanding that Act.

(5) The *Regulations Act* does not apply to orders made under subsection (3).

(6) The chair of the Standing Committee must lay a copy of each order made under subsection (3) before the Legislative Assembly if it is then sitting or, if it is not, within 15 days after the start of the next sitting.

(7) Every individual employed or engaged under subsection (1) or (2) must, before beginning to perform duties or functions under this Act, take an oath, to be administered by the Commissioner, not to disclose any information received by that individual under this Act except as provided in this Act.

2012 cP-39.5 s44;2015 cP-40.5 s24

Records management

44.1(1) On the recommendation of the Commissioner, the Standing Committee may make an order

- (a) respecting the management of records in the custody or under the control of the Office of the Public Interest Commissioner, including their creation, handling, control, organization, retention, maintenance, security, preservation, disposition, alienation and destruction and their transfer to the Provincial Archives of Alberta,
- (b) establishing or governing the establishment of programs for any matter referred to in clause (a),
- (c) defining and classifying records, and
- (d) respecting the records or classes of records to which the order or any provision of it applies.

(2) The *Regulations Act* does not apply to orders made under this section.

(3) The chair of the Standing Committee must lay a copy of each order made under subsection (1) before the Legislative Assembly if it is then sitting or, if it is not, within 15 days after the start of the next sitting.

2017 c11 s35

Functions of the Commissioner

45 The functions of the Commissioner are

- (a) to carry out the purposes of this Act set out in section 2,
- (b) to review and investigate disclosures and complaints of reprisals made under this Act, and
- (c) to perform any other functions that are set out in this Act or the regulations.

Delegation by the Commissioner

45.1(1) The Commissioner may delegate to any person employed or engaged by the Commissioner under section 44 any duty, power

or function of the Commissioner under this Act except the power to delegate.

(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the Commissioner considers appropriate.

2017 c11 s36

Part 7 Offences and Penalties

Offence — false statement

46(1) No person shall, in requesting advice about making a disclosure, in making a disclosure, in making a complaint of a reprisal or during an investigation, knowingly withhold material information or make a false or misleading statement, orally or in writing, to

- (a) a designated officer,
- (b) a chief officer,
- (c) the Commissioner,
- (d) the Board, or
- (e) an individual acting on behalf of or under the direction of any person listed in clauses (a) to (d).

(2) No person shall counsel or direct another person to wilfully, in requesting advice about making a disclosure, in making a disclosure, in making a complaint of a reprisal or during an investigation, withhold material information or make a false or misleading statement, orally or in writing, to

- (a) a designated officer,
- (b) a chief officer,
- (c) the Commissioner,
- (d) the Board, or
- (e) an individual acting on behalf of or under the direction of any person listed in clauses (a) to (d).

2012 cP-39.5 s46;2017 c11 s37

Offence — obstruction

47 No person shall wilfully obstruct, or counsel or direct a person to wilfully obstruct, a designated officer, a chief officer, the Commissioner, the Board or any individual acting on behalf of or

under the direction of a designated officer, a chief officer, the Commissioner or the Board, in the performance of a duty or function under this Act.

2012 cP-39.5 s47;2017 c11 s37

Offence – destruction, falsification, concealment

48 No person shall, knowing that a document or thing is likely to be relevant to an investigation under this Act,

- (a) destroy, mutilate or alter the document or thing,
- (b) falsify the document or make a false document or thing,
- (c) conceal the document or thing, or
- (d) direct, counsel or in any manner cause a person to do anything mentioned in clauses (a) to (c).

Offence and penalty

49 Any person who contravenes section 24, 46, 47 or 48 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$25 000, and
- (b) for a 2nd or subsequent offence, to a fine of not more than \$100 000.

Limitation on prosecution

50 A prosecution under this Act may not be commenced later than 2 years after the day the alleged offence was committed.

Protection of Commissioner and others

51(1) Subject to subsection (3), no action lies or may be commenced or maintained against

- (a) a designated officer,
- (b) a chief officer,
- (c) the Commissioner, or
- (d) any person employed or engaged for services and acting on behalf of or under the direction of a designated officer, a chief officer or the Commissioner,

in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Act or in the

performance or intended performance of any duty or function under this Act.

(2) Subject to subsection (3), no person is liable to prosecution for an offence against any Act, and no action lies or may be commenced or maintained against a person, by reason of the person's compliance with any requirement of this Act.

(3) Subsections (1) and (2) do not apply to a person referred to in those subsections in relation to anything done or omitted to be done by that person in bad faith.

Commissioner and others not compellable

51.1 Despite any other Act or law, the Commissioner, employees of the Office of the Public Interest Commissioner and any person engaged by the Office of the Public Interest Commissioner under section 44 are not compellable to give evidence concerning any record or information that is obtained or comes to their knowledge as the result of the exercise of the powers, the performance of the duties or the carrying out of the functions of those persons pursuant to this Act, or to produce anything containing that record or information, except for the purposes of

- (a) a disclosure under section 12, a complaint of a reprisal submitted to the Auditor General under section 25(3) or a referral to the Board in respect of the Office of the Public Interest Commissioner,
- (b) the prosecution of an offence under this Act, or
- (c) the judicial review of a decision of the Commissioner pursuant to this Act.

2017 c11 s38

Proceedings of Commissioner not subject to review

52(1) Subject to subsection (2), no decision, report or proceeding of the Commissioner is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Commissioner shall be challenged, reviewed, quashed or called into question in any court.

(2) A decision of the Commissioner concerning a reprisal may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on the Commissioner no later than 30 days after the date of the decision, report, proceeding or reasons, whichever is latest.

- (3) The Court may, in respect of an application under subsection (2),
- (a) determine the issues to be resolved on the application,
 - (b) limit the contents of the return from the Commissioner to those materials necessary for the disposition of those issues, and
 - (c) give directions to protect the confidentiality of the matters referred to in Part 4.1.

2012 cP-39.5 s52;2017 c11 s39

Act to provide additional remedies

53 The provisions of this Act are in addition to the provisions of any other Act or rule of law pursuant to which any remedy, right of appeal or objection is provided for any individual, or any procedure is provided for inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure.

Legal, disciplinary and corrective action

53.1 In addition to, and apart from, any sanction provided for by law,

- (a) an employee who commits a wrongdoing is subject to appropriate disciplinary action, including termination of employment, and
- (b) a public entity, prescribed service provider, employee or other person who commits a wrongdoing is subject to appropriate corrective action.

2017 c11 s40

Part 8 Transitional Provisions, Consequential Amendments and Coming into Force

Transitional

53.2(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the powers and duties to be exercised concerning any disclosure, investigation or complaint of a reprisal commenced but not completed prior to the coming into force of the *Public Interest Disclosure (Whistleblower Protection) Amendment Act, 2017* or any part of that Act;

(b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the coming into force of the *Public Interest Disclosure (Whistleblower Protection) Amendment Act, 2017* or any part of that Act.

(2) A regulation made under subsection (1) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) 2 years after the regulation comes into force.

(3) The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, decided, recommended, reported or ordered under the authority of the regulation before the repeal of the regulation.

2017 c11 s42

54 to 62 *(These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.)*

Coming into force

63 This Act comes into force on Proclamation.

(NOTE: Section 1 and Part 6 (sections 38 to 45) proclaimed in force April 24, 2013. Section 2 and Parts 1 to 5, 7 and 8 (sections 3 to 37 and 46 to 63) proclaimed in force June 1, 2013.)



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