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<b>Approving Body</b>	NBCHG Board of Directors

**NB Community Harvest Gardens, Inc.  
Anti-Violence and Anti-harassment Code of Practice**

**Policy Statement**

Every employee has a right to work in a healthy work environment that is free from violence and harassment. NB Community Harvest Gardens Inc. (NBCHG) is committed to providing a workplace free of violence and harassment where all employees are treated with respect and dignity. Workplace violence or harassment will not be tolerated.

An employee, as defined by the Occupational Health and Safety act, is

- (a) a person employed at or in a place of employment, or
- (b) a person at or in a place of employment for any purpose in connection therewith\*

\*A person is considered an employee when they perform work-related duties at or in a place of employment, and their employer is subject to New Brunswick’s *OHS Act*. This includes individuals who are not in traditional employment relationships. These persons may be employed by the employer, another employer, be a volunteer, or be self-employed; however, they must be conducting work-related duties while at the place of employment. Examples of these types of employees are interns, volunteers, employees of contractors (painters, welders, electricians on a construction site, etc.), and delivery personnel (truck drivers, couriers, etc.).

The New Brunswick Human Rights Act protects employees from harassment and/or other forms of discrimination based on race, colour, national origin, ancestry, place of origin, creed or religion, age, physical disability, mental disability, marital status, family status, sex, sexual orientation, gender identity or expression, social condition, and political belief or activity.

Employees who are found to have been violent or to have harassed another individual may be subject to disciplinary action. This includes but is not limited to any employee who: interferes

with the resolution of a violence and/or harassment complaint; retaliates against an individual for filing a harassment complaint; or files an unfounded harassment complaint intended to cause harm.

## **Application**

NBCHG will not tolerate workplace violence or harassment from any person in the workplace including employees, contractors, consultants, co-workers, supervisors, interns, volunteers, members, clients, customers, event partners, temporary employees, job applicants, and members of the public.

Violence and harassment in the workplace may involve a range of behaviours. This document is intended to inform NBCHG employees of responsibilities and expectations as they relate to violence and harassment, and the process for addressing such behaviour should the situation arise.

This policy applies to all behaviour that is connected to work, including off-site meetings, field trips, training, events, social media communications, organization-sanctioned social functions, business trips, or business/training performed at any other location away from NBCHG premises, during or outside of normal working hours. The policies and associated procedures set out in this document apply to all NBCHG Employees, Management, and Members of the NBCHG Board of Directors.

## **Where is the Workplace?**

The 'workplace' means the place of employment and includes any building, structure, premises, or land where NBCHG conducts business. This includes areas such as farm and garden plots, offices, classrooms, greenhouses, barns, restrooms, eating spaces, and parking lots, etc, and the activities and behaviours connected to work as listed above in the '**Application**' section.

### **What is workplace harassment?**

Not every instance of disrespectful behavior, unpleasant interaction, or workplace conflict is harassment or bullying. The following is the definition used from New Brunswick Regulation 2018-82 under the Occupational Health and Safety Act, Section 1(b):

"Harassment," in a place of employment, means any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome, including bullying or any other conduct, comment or display made on either a one-time or repeated basis that threatens the health or safety of an employee, and includes sexual harassment, but does not include reasonable conduct of an employer in respect of the management and direction of employees at the place of employment.

**Harassment includes, but is not limited to:**

- offending or humiliating someone physically or verbally;
- threatening or intimidating someone;
- making unwelcome jokes or comments about someone's race, colour, national origin, ancestry, place of origin, creed or religion, age, physical disability, mental disability, marital status, family status, sex, sexual orientation, gender identity or expression, social condition, and political belief or activity;
- bullying or aggressive behaviour;
- conduct or comments intended to create, or have the effect of creating, an intimidating, hostile or offensive environment;
- threats made or perceived, that are malicious, vexatious or based on any prohibited grounds under Human Rights legislation;
- derogatory written or verbal communication or gestures that are malicious or vexatious, application of stereotypes or generalizations, actions that are offensive, cruel or humiliating, whether physical or verbal, direct or indirect;
- leering, unwelcome gifts, unwanted attention or inappropriate requests;
- workplace Sexual Harassment (as defined below); or
- abuse of power.

**Harassment does not include:**

- an employer's management decisions, such as scheduling and shifts, work assignments, or deadlines;
- work evaluation and/or performance management; or
- disciplinary actions.

**Workplace sexual harassment includes, but is not limited to:**

- engaging in a course of vexatious comment or conduct against an individual in a workplace because of sex, sexual orientation, gender identity or gender expression, where the comment or conduct is known or ought reasonably to be known to be unwelcome;
- making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;
- offensive, vexatious or humiliating behaviour that is related to a person's sex, gender identity, sexual orientation, or expression;
- behaviour of a sexual nature that creates an intimidating, unwelcome, hostile or offensive work environment;
- persistent unwelcome or uninvited invitations or requests;
- displaying or circulating sexually offensive or derogatory pictures, cartoons, or other material in print or electronic form; or
- unwelcome questions or sharing of information regarding a person's sexuality, sexual activity, or sexual orientation.

## **Poisoned Work Environment**

A poisoned work environment is characterized by an activity or behaviour, not necessarily directed at anyone in particular, that creates a hostile or offensive workplace. The creation of or contribution to a poisoned work environment will not be tolerated.

### **Examples of a poisoned work environment include but are not limited to:**

- sexual, racial or religious insults, jokes, or graffiti;
- abusive treatment of an employee; or
- the display of pornographic or other offensive material.

## **Abuse of Authority**

Abuse of authority is where an individual improperly uses the power and authority inherent in a position to endanger a person's job, undermine the performance of that job, threaten the person's economic livelihood, or in any way interfere with or influence a person's career. It is the exercise of authority in a manner which serves no legitimate work purpose and ought reasonably to be known to be inappropriate.

### **Examples of abuse of power include but are not limited to such acts or misuse of power such as:**

- intimidation;
- threats;
- blackmail; or
- coercion.

### **What is workplace violence?**

"Violence," in a place of employment, means the attempted or actual use of physical force against an Individual or any threatening statement or behaviour that gives any Individual reasonable cause to believe that physical force will be used against the Individual.

### **Workplace violence includes, but is not limited to:**

- arguments;
- property damage;
- sabotage;
- pushing or other physical assault; and
- anger-related incidents committed by or against an NBCHG employee.

## **Responsibilities and Expectations**

NBCHG is responsible for providing all employees a violence- and harassment-free

workplace. An employee who reports or complains of a health and safety matter (including workplace violence and harassment) is protected against any discriminatory action taken by their employer.

Workers must report any incidents of workplace violence and/or harassment ***which take place at or are associated with Hayes Farm*** to the **Farm Manager/Mentor**, or the **Youth and Family Educator** if there is a conflict of interest

Workers must report any incidents of workplace violence and/or harassment ***which take place at or are associated with Marysville Community Garden OR St. Mary's Community Garden*** to the **Garden Director**, or **NBCHG Co-Chair** if there is a conflict of interest.

Should an employee elect to register a formal complaint, they should consult '***Filing a Formal Violence and/or Harassment Complaint***' in the '***PROCEDURES***' section.

The **Farm Manager/Mentor and/or Youth and Family Educator** is responsible for implementing the code of practice.

The **Farm Manager/Mentor and/or Youth and Family Educator** will investigate and deal with all complaints or incidents of workplace violence and/or harassment fairly, respectfully and timely. The investigator will ensure the investigation is kept confidential, unless necessary to conduct the investigation or as required by law. The investigator will remind the worker who reported the workplace violence and/or harassment, the respondent(s), and any witness(es) of confidentiality requirements under the workplace violence and/or harassment policy.

The **Farm Manager/Mentor and/or Youth and Family Educator** must provide the investigation results in writing to the affected employees by way of an investigation report.

The **Farm Manager/Mentor and/or Youth and Family Educator** will implement corrective measures identified in the investigation report. Notices will be posted and circulated by email if there are new or revised procedures to follow.

Individual responsibilities are as follows:

**The Farm Manager/Mentor and/or Youth and Family Educator are responsible for:**

- fostering a violence- and harassment-free work environment and setting an example about appropriate workplace behaviour;
- communicating the process for investigating and resolving violence and harassment complaints made by employees;
  - dealing with situations immediately upon becoming aware of them, whether or not a complaint has been made. If the nature of the incident requires immediate action, this may mean reporting the incident to the police for investigation and completing a violent incident report;
- taking appropriate action during a violence or harassment investigation, including separating the parties to the complaint, when appropriate;

- ensuring violence and harassment situations are dealt with in a sensitive and confidential manner;
- providing training to employees on the anti-violence and anti-harassment Code of

Practice. **Employees are responsible for:**

- treating others with respect in the workplace;
- making an effort to resolve workplace communication challenges as quickly and directly as possible with mutual respect;
- reporting violence and/or harassment to **Farm Manager/Mentor and/or Youth and Family Educator** (or *NBCHG Board of Directors*). If the nature of the incident requires immediate action, the employee shall report the incident to the police for investigation and complete a violent incident report to be submitted to the **Farm Manager/Mentor and/or Youth and Family Educator**(or *NBCHG Board of Directors*) as soon as circumstances permit; and
- cooperating with a violence or harassment investigation and respecting the confidentiality related to the investigation process.

**Employees can expect:**

- to be treated with respect in the workplace;
- that reported violence and/or harassment will be dealt with in a timely, confidential and effective manner;
- to have their rights to a fair process and to confidentiality respected during a violence and/or harassment investigation; and
- to be protected against retaliation for reporting violence and/or harassment or cooperating with a violence and/or harassment investigation.

**The Farm Manager/Mentor and/or Youth and Family Educator** (or *NBCHG Board of Directors*) is responsible for:

- ensuring that this policy is applied in a timely, consistent and confidential manner;
- determining whether or not allegations of violence and/or harassment are substantiated;
- determining what corrective action is appropriate where a violence and/or harassment complaint has been substantiated;
- reviewing this policy annually, following relevant legislative changes, or as required; and
- making necessary adjustments to ensure that this policy meets the needs of the organization.

## **PROCEDURES**

NBCHG is committed to providing a workplace free of violence and harassment where all employees are treated with respect and dignity. Workplace violence and/or harassment will not be tolerated from any person in the workplace including employees, contractors, consultants, co-workers, supervisors, interns, volunteers, members, clients, customers, event partners, temporary employees, job applicants, and members of the public.

## STEP 1

**We encourage all employees to resolve workplace communication challenges as quickly and directly as possible with mutual respect.** If employees are unable to find a resolution, they should address their concern(s) to their immediate supervisor. If resolution cannot be achieved through the supervisor, the employee may address their concerns to the **Farm Manager/Mentor and/or Youth and Family Educator** (or NBCHG Board of Directors).

## STEP 2

If a satisfactory resolution is not possible via Step 1 OR if violence and/or harassment is perceived to have taken place, the employee should address their concerns to the **Farm Manager/Mentor and/or Youth and Family Educator** (or NBCHG Board of Directors). If that avenue of resolution is not satisfactory, a formal complaint may be made as outlined below.

If the nature of the incident is violent and requires immediate action, the employee shall report the incident to the police for investigation and complete a violent incident report to be submitted to the **Farm Manager/Mentor and/or Youth and Family Educator** (or NBCHG Board of Directors) as soon as circumstances permit.

## STEP 3

### **Filing a Formal Violence and/or Harassment Complaint**

An employee may file a violence and/or harassment complaint with the **Farm Manager/Mentor and/or Youth and Family Educator** (or NBCHG Board of Directors). If the complaint is made verbally the **Farm Manager/Mentor and/or Youth and Family Educator**(or NBCHG Board of Directors) will record the details provided by the employee. A complaint may also be submitted in writing via email or using a complaint form. All communication with the **Farm Manager/Mentor and/or Youth and Family Educator** (or NBCHG Board of Directors) will remain strictly confidential until such time as the complaint process requires moving to a larger conversation.

**Filing a complaint of violence or harassment is a formal process and should not be taken lightly.** The employee should be prepared to provide details such as what happened; when it happened; where it happened; how often; and who else was present (if applicable).

**Complaints should be made as soon as possible, preferably within 12 months** from the last incident of perceived violence and/or harassment, unless there are circumstances that prevented the employee from doing so. NBCHG has the discretion to extend the deadline for filing a complaint for any reason it deems fit.

The **Farm Manager/Mentor and/or Youth and Family Educator** (or NBCHG Board of Directors) will investigate and deal with all complaints or incidents of workplace violence and/or harassment fairly, respectfully, and in a timely manner. This may include reporting the incident to the police for investigation. If the incident is not reported to the police and dealt with internally, the investigator will ensure the investigation is kept confidential, unless necessary to conduct the investigation or as required by law. The investigator will remind the worker who reported the workplace violence and/or harassment, the respondent(s), and any witness(es) of confidentiality requirements.

**Every effort will be made to resolve harassment complaints within 30 days.** If this is not possible, both parties will be advised of the reasons why.

#### STEP 4

##### **Mediation**

Wherever appropriate and possible, the parties to the violence and/or harassment complaint will be offered mediation prior to proceeding with an investigation. Mediation is voluntary and confidential. It is intended to assist the parties to arrive at a mutually acceptable resolution to the harassment complaint.

The mediator will be a neutral person, mutually agreed upon by both parties. The mediator will not be involved in investigating the complaint; another individual may be delegated as an investigator if needed (see Step 5). Each party to the complaint has the right to be accompanied and assisted during mediation sessions by a person of their choosing.

#### STEP 5

##### **Investigation**

If mediation is inappropriate or does not resolve the issue, an investigation will be conducted. All investigations will be handled by an individual who has the necessary training and experience. In some cases, an external consultant may be engaged for this purpose.

The investigator will interview the person who made the complaint, the person the complaint was made against, and any witnesses that have been identified. All people who are interviewed will have the right to review their statement, as recorded by the investigator, to ensure its accuracy.

The investigator will prepare a written report that will include:

- a description of the allegations;
- the response of the person the complaint was made against;
- a summary of information learned from witnesses (if applicable); and
- a decision about whether, on a balance of probabilities, violence and/or harassment did

occur.

##### **Follow Up of a Substantiated Complaint**

If a formal complaint is substantiated, the **Farm Manager/Mentor and/or Youth and Family Educator** (or *NBCHG Board of Directors*) will decide what action is appropriate.

**Remedies** for the employee who was subject to violence and/or harassment may include:

- an oral or written apology;
- compensation for lost wages;



- any other remedy deemed appropriate given the circumstances.

**Corrective action** for the employee found to have engaged in violence and/or harassment may include:

- a reprimand;
- a suspension; and/or
- dismissal.

Both parties to the complaint will be advised, in writing, of the decision.

The **Farm Manager/Mentor and/or Youth and Family Educator** (or *NBCHG Board of Directors*) will implement corrective measures identified in the investigation. Notices will be put on employee bulletin boards and circulated via email if there are new or revised procedures to follow.

### **Other Options**

- If all other reporting options have been exhausted or are not available, employees may seek advice by contacting WorkSafeNB at 1.800.222.9775.
- **Complaints to the New Brunswick Human Rights Commission (NBHRC):** discrimination in employment is covered under the New Brunswick Human Rights Act. Complaints of discrimination may be filed with the NBHRC within one year of the time the incident occurred and are investigated by the NBHRC. For more information, contact the New Brunswick Human Rights Commission at 506.453.2301.
- **Complaints under the Criminal Code:** Sexual and other forms of assault are covered under the Criminal Code. In these instances, the police may lay criminal charges. Sexual and other forms of assault are serious criminal offenses that should be reported to the police.

### **Bad Faith Complaints**

A person who files an unsubstantiated complaint under this Code of Practice that involves a deliberate falsehood or malicious intent or is otherwise made in bad faith, as determined by the investigator, shall be subject to appropriate disciplinary action, up to and including termination.

### **Retaliation**

Anyone who retaliates against an employee who made a harassment complaint, provided evidence in relation to a harassment complaint, or was found to have committed harassment, will be subject to disciplinary action up to and including termination.

### **Training**

NBCHG shall provide all employees with training in relation to this Policy. NBCHG shall keep training records for each employee in relation to the training they received in relation

to this Policy.

### **Conclusion**

Any person working for NB Community Harvest Gardens Inc. including employees, co-workers, contractors, consultants, supervisors, interns, volunteers, members, clients, customers, event partners, temporary employees, job applicants, and members of the public shall adhere to this code of practice. Any incident of violence and/or harassment should be reported as soon as possible. No one will be penalized or disciplined for reporting an incident or for participating in an investigation.

### **Privacy and Confidentiality**

All parties to a complaint of violence or harassment are expected to respect the privacy and confidentiality of all other parties involved and to limit the discussion of a complaint to those that need to know.

NB Community Harvest Gardens Inc. and all individuals involved in the violence and/or harassment complaint process, will comply with all requirements of the Personal Information Protection and Electronic Documents Act to protect personal information.

### **Review**

NBCHG will review this policy and procedures on an annual basis, or as required, and will make necessary adjustments to ensure that it meets the needs of all employees.

### **Enquiries**

Enquiries about this policy and related procedures can be made to the **Farm Manager/Mentor and/or Youth and Family Educator** (or NBCHG Board of Directors).