

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND
LOCAL BOARDS (RESTRICTED DEFINITION)
CITY OF TORONTO**

Authority: Consolidated Code of Conduct for Members of Council, including:

“Code of Conduct for Members of Council Inclusive of Lobbyist Provisions” adopted, as amended, by City Council on September 28 and 29, 1999 (Clause 2 of Report 5 of the Administration Committee) and as amended by:

“Amendments to Code of Conduct for Members of Council” approved by City Council on September 25, 26 and 27, 2006 (Clause 26 of Report 7 of the Policy and Finance Committee) that under Council action (2) came into force on February 8, 2007 following City Council’s approval on February 5, 6, 7 and 8, 2007 of the appeal mechanisms and legal support program in CC2.5
“Amendments to the Code of Conduct Complaint Protocol under Members Code of Conduct”

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¹ Prepared by Integrity Commissioner for Ease of Reference

PREAMBLE:

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

To these ends, during its first term as a unified City, the City of Toronto, as one of several initiatives, adopted a *Code of Conduct for Members of Council*. Subsection 157(1) of the *City of Toronto Act, 2006* now requires the City to establish codes of conduct for members of Council and of certain local boards of the City. In response to this requirement, the City has revised and updated the original *Code of Conduct*. It is intended to supplement and be compatible with the laws governing the conduct of members.

The key statements of principle that underline the *Code of Conduct* are as follows:

- Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and the City Council.

I. STATUTORY PROVISIONS REGULATING CONDUCT:

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members. Four pieces of provincial legislation govern the conduct of members of Council:

- the *City of Toronto Act, 2006*, and Chapter 27, Council Procedures, of the Municipal Code (the Council procedures by-law) passed under section 189 of that Act;
- the *Municipal Conflict of Interest Act*;
- the *Municipal Elections Act, 1996*; and
- the *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of members of Council.

II. APPLICATION:

This *Code of Conduct* applies to all members of Council (including the Mayor).

This *Code of Conduct* also applies, subject to any necessary modification, to members of local boards (restricted definition) as defined in section 156 of the *City of Toronto Act, 2006* and, by reference to A3 (as amended) of Clause 2 of Report No. 5 of the Administration Committee as amended and adopted by City Council at its meeting on September 28 and 29, 1999, to all other appointments to City agencies, boards and commissions (subject to any necessary (legal) modification) .

(The provisions of the *Municipal Conflict of Interest Act* also apply to local boards, as defined in that Act, with decision-making power.)

III. DEFINITIONS:

In the *Code of Conduct*, the terms “child”, “parent” and “spouse” have the same meanings as in the *Municipal Conflict of Interest Act*:

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage

IV. GIFTS AND BENEFITS:

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of Office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the member’s knowledge to a member’s spouse, child, or parent, or to a member’s staff that is connected directly or indirectly to the performance of the member’s duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country;

- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - 1. attendance serves a legitimate business purpose;
 - 2. the person extending the invitation or a representative of the organization is in attendance; and
 - 3. the value is reasonable and the invitations infrequent; and
- (h) communication to the offices of a member, including subscriptions to newspapers and periodicals.

Except for category (c), these exceptions do not apply to lobbyists. Lobbyists are not permitted to make a gift or provide a benefit under this provision unless it is a political contribution permitted by law.

In the case of categories (b), (e), (f), (g), and (h), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate

- 1. the nature of the gift or benefit;
- 2. its source and date of receipt;
- 3. the circumstances under which it was given or received;
- 4. its estimated value;
- 5. what the recipient intends to do with any gift; and
- 6. whether any gift will at any point be left with the City.

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City.

Except in the case of category (f), a member may not accept a gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500.

V. CONFIDENTIAL INFORMATION:

Confidential information includes information in the possession of the City that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *City of Toronto Act, 2006* allows information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation, to remain confidential. For the purposes of the *Code of Conduct*, “confidential information” also includes this type of information.

No member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.

Under the Procedural By-law (passed under section 189 of the *City of Toronto Act, 2006*), a matter that has been discussed at an in-camera (closed) meeting remains confidential. No

member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

The following are examples of the types of information that a member of Council must keep confidential:

- items under litigation, negotiation, or personnel matters;
- information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confidence);
- price schedules in contract tender or Request For Proposal submissions if so specified;
- information deemed to be “personal information” under the *Municipal Conflict of Interest Act*; and
- statistical data required by law not to be released (e.g. certain census or assessment data).

Members of Council should not access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by Council policy.

VI. USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES:

No member of Council should use, or permit the use of City land, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, web sites, Council transportation delivery services and Councillor global budgets) for activities other than the business of the Corporation. Nor should any member obtain financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the City.

VII. ELECTION CAMPAIGN WORK:

Members are required to follow the provisions of the *Municipal Elections Act, 1996*. No member shall use the facilities, equipment, supplies, services or other resources of the City

(including Councillor newsletters and websites linked through the City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on City property during regular working hours. No member shall use the services of persons during hours in which those persons receive any compensation from the City.

VIII. IMPROPER USE OF INFLUENCE:

No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

For the purposes of this provision:

"private advantage" does not include a matter:

- (a) that is of general application;
- (b) that affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- (c) that concerns the remuneration or benefits of a member of Council.

IX. BUSINESS RELATIONS:

No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the City except in compliance with the terms of the *Municipal Conflict of Interest Act*.

A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

X. CONDUCT RESPECTING CURRENT AND PROSPECTIVE EMPLOYMENT:

No member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the City.

XI. CONDUCT AT COUNCIL:

Members shall conduct themselves with decorum at Council in accordance with the provisions of Chapter 27, Council Procedures, of the Municipal Code (the Council procedures by-law).

XII. CONDUCT RESPECTING STAFF:

Only Council as a whole has the authority to approve budget, policy, Committee processes and other such matters. Accordingly, members shall direct requests outside of Council-approved budget, process or policy, to the appropriate Standing Committee.

Under the direction of the City Manager, staff serves the Council as a whole, and the combined interests of all members as evidenced through the decisions of Council. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the City.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Schedule to the *Code of Conduct* and include dealing with constituents and the general public, participating as Standing Committee members, participating as Chairs of Standing Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council.

XIII. CONDUCT RESPECTING LOBBYISTS:

Lobbying is a permissible but regulated activity. In the City of Toronto, it is defined in terms of any communication between a paid lobbyist, or a voluntary lobbyist on behalf of a for-profit entity, and a public official (including a member of Council) in respect of a broad range of subject matters.

Members of Council are responsible for upholding the terms of Chapter 140, Lobbying, of the City of Toronto Municipal Code (the lobbying by-law, inclusive of the lobbyists' code of conduct).

More particularly, members of Council should not engage in communications in respect of the list of subject matters contained in Chapter 140 with a person who is not registered as required by Chapter 140.

Members of Council should also not knowingly communicate with a registered lobbyist who is acting in violation of Chapter 140.

In the event that a lobbyist is in violation of Chapter 140, members of Council should either refuse to deal with the lobbyist on those terms or, where appropriate, terminate the communication with the lobbyist at once and communicate the violation or attempted violation to the Lobbyist Registrar.

[This provision shall come into force when Chapter 140, as enacted under the *City of Toronto Act, 2006*, comes into force. Until then, Part X, now renumbered as Part XIII, of the original *Code of Conduct* remains in effect.]

XIV. DISCREDITABLE CONDUCT:

All members of Council have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies, as does the Human Rights, Harassment and Hate Activity Policy Framework adopted by Council at its meeting of December 16 and 17, 1998.

XV. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES:

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members of Council are required to observe the terms of all policies and procedures established by City Council.

This provision does not prevent a member of Council from requesting that Council grant an exemption from a policy.

XVI. REPRISALS AND OBSTRUCTION:

Members of Council should respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

XVII. ACTING ON ADVICE OF INTEGRITY COMMISSIONER:

Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner.

XVIII. COMPLIANCE WITH THE CODE OF CONDUCT:

Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.

In addition, subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council to impose either of two penalties on a member of Council or a local board (restricted definition) following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Conduct*:

1. A reprimand; or
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or the local board, as the case may be, for a period of up to 90 days.

Other Actions:

The Integrity Commissioner may also recommend that Council or a local board (restricted definition) take the following actions:

1. Removal from membership of a Committee or local board (restricted definition).
2. Removal as Chair of a Committee or local board (restricted definition).
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to Council, the complainant, or both.

**SCHEDULE TO THE CODE OF CONDUCT
ROLES AND RESPONSIBILITIES OF THE COUNCIL MEMBERS AND STAFF**

Notes:

1. This Schedule has not yet been updated to reflect the changes made in 2006 to the Municipal Code Chapter 27, Council Procedures, by By-law No.1045-2006 for example, the role of the Speaker.
2. To access the former version of the Schedule (i.e. not yet amended as per note #1) please select [Schedule to the Code of Conduct: Roles and Responsibilities of the Council Members and Staff](#).