

Appendix I

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

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Note: This document is a modified version of the “Code of Conduct for Members of Council” for members of local boards (restricted definition), other than adjudicative boards.

There is a separate version of the Code of Conduct for members of local boards (restricted definition) that adjudicate.

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:

- (1) “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”; and
- (2) “Report on Congruence between Lobbying By-law and Obligations under Members Code of Conduct” approved by Council on April 28 and 29, 2008 (EX 19.7, motions 1 and 2).

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 members of Council and the citizen members who are appointed to local boards by Council to act on its behalf. 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*. Although the title refers to Members of Council, it was also binding on citizen members of local boards.

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* and developed two separate versions for local boards. Each Code of Conduct is intended to supplement and be compatible with the laws governing the conduct of members.

This Code of Conduct is based on the following principles:

- Members of local boards shall serve and be seen to serve the City and community in a conscientious and diligent manner;
- Members of local boards 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 local boards 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 local boards shall seek to serve the City’s and the public’s interest by upholding both the letter and the spirit of applicable laws of the Federal Parliament and Ontario Legislature, and the laws and policies of Council and of the local board of which they are a member.

I. DEFINITIONS

In the *Code of Conduct*:

- (a) the following terms shall have the meanings indicated:

“Council” means the Council of the City of Toronto;

“local board” means a local board as defined in section 156 of the *City of Toronto Act, 2006*; and

“member” means a member of a local board.

- (b) 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; and

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

II. STATUTORY PROVISIONS REGULATING CONDUCT

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members of local boards. The following provincial legislation governs the conduct of members:

- the *City of Toronto Act, 2006*, and, where applicable, 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*; and
- the *Municipal Freedom of Information and Protection of Privacy Act*.

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

III. APPLICATION

This *Code of Conduct* applies to members of local boards other than adjudicative boards.

Members of adjudicative boards are governed by the *Code of Conduct for Members of Adjudicative Boards*.

Members of Council are bound by the *Code of Conduct for Members of Council*. However, when a Member of Council is acting in her or his capacity as a member of a local board, the Member of Council is also bound by provisions of this Code that are specific to the requirements of a local board.

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, in the case of members running for office;
- (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 for the local board on which the member serves;
 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) (political contributions allowable by law), these exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying). For these purposes, a lobbyist is an individual, organization or business that:

- [i] is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- [ii] the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or
- [iii] is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

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 or the local board.

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 or local board.

Except in the case of categories (a), (c), and (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, or received in confidence by a local board that the local board is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as “MFIPPA”), or other legislation. Generally, the *Municipal Freedom of Information and Protection of Privacy Act* 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 to do so by the local board or, if applicable, by Council.

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 property or assets of the local board or City.

Under the City’s Procedures By-law (passed under section 189 of the *City of Toronto Act, 2006*), or similar provisions of the local board’s procedure by-law, 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 local board, committee of the local board or, if applicable, Council or one of its committees 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 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 should not access or attempt to gain access to confidential information in the custody of the local board or City unless it is necessary for the performance of their duties and not prohibited by the local board or Council policy.

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

No member should use, or permit the use of local board or City land, facilities, equipment, supplies, services, staff or other resources (for example, local board or City-owned materials, websites, local board and City transportation delivery services and any members expense budgets) for activities other than the business of the local board or the City; nor should any member obtain personal financial gain from the use or sale of local board or 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 local board or City.

VII. ELECTION CAMPAIGN WORK

No member shall use the facilities, equipment, supplies, services or other resources of the local board or the City (including the local board’s newsletters and websites linked through the local board’s or City’s website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on local board or City property unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes during the hours in which those persons receive any compensation from the local board or the City.

VIII. IMPROPER USE OF INFLUENCE

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

Examples of prohibited conduct are: the use of one’s status as a member of a local board 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 others (similar to constituents of a Member of Council) as part of their official duties as a member of the local board. Also prohibited is the holding out of the

prospect or promise of future advantage through a member's supposed influence within the local board or at the City, 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, 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.

IX. BUSINESS RELATIONS

No member shall act as a paid agent before an agency, board or commission of the City, the Council, and its committees, 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 local board and to the City.

XI. CONDUCT AT MEETINGS

Members shall conduct themselves with decorum at the local board meetings in accordance with the provisions of the local board's procedure by-law and this Code of Conduct. Where the local board's procedure by-law does not address an issue, members should use Council's Procedures By-law as a reference.

XII. CONDUCT RESPECTING STAFF

Members shall be respectful of the role of staff of the local board and, if applicable, staff of the City, to provide advice based on political neutrality and objectivity, and without undue influence from any individual member or faction of the local board. 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 staff.

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.

XIII. CONDUCT RESPECTING LOBBYISTS

Lobbying of public office holders is a permissible but regulated activity in the City of Toronto. Lobbying is defined and regulated by Municipal Code Chapter 140, Lobbying (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct).

Members and their staff are public office holders. As a matter of general principle, as public office holders, members should be familiar with the terms of this lobbying by-law inclusive of the Lobbyist Code of Conduct (Chapter 140).

Specifically, members should not engage knowingly in communications in respect of the list of subject matters contained in the definition of "Lobby" as set out in Chapter 140 with a person who is not registered as required by Chapter 140.

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

If a member is or at any time becomes aware that a person is in violation of Chapter 140, the member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by Chapter 140.

A member should report any such violation or attempted violation of Chapter 140 to the Lobbyist Registrar unless the member believes in good faith that the violation in communicating or attempting to communicate with the member was inadvertent or insignificant.

XIV. DISCREDITABLE CONDUCT

All members of local boards 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 and if applicable, the Human Rights and Anti-harassment Policy adopted by Council at its meeting of December 16 and 17, 1998 or its successor policy¹, and the Hate Activity Policy adopted by Council December 16 and 17, 1998.

XV. FAILURE TO ADHERE TO COUNCIL OR LOCAL BOARD POLICIES AND PROCEDURES

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members are required to observe the terms of all policies and procedures established by the local board and any Council policies and procedures that apply to the local board or its members.

¹ As may be considered/amended by Council June 23, 2008.

This provision does not prevent a member from requesting that Council or the local board grant an exemption from a policy.

XVI. REPRISALS AND OBSTRUCTION

Members 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

Subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council as well as local boards to impose either of two penalties on a member 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, if applicable, paid to the member in respect of his or her services as a member of the local board for a period of up to 90 days.

In the case of a member of the local board who is a Member of Council, Council may also consider suspension of the remuneration paid to the member in respect of his or her services as a Member of Council for a period of up to 90 days.

Other Actions

The Integrity Commissioner may also recommend that Council, or a local board that has authority to do so, take the following actions:

1. Removal from membership of a committee, sub-committee or panel of the local board or Council.
2. Removal as Chair of a local board, or a committee or subcommittee of a local board or of Council.
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to the local board, Council, the complainant, or to a combination of any of them.

Appendix II

**CODE OF CONDUCT FOR MEMBERS OF
ADJUDICATIVE BOARDS
CITY OF TORONTO**

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Note: This document is a modified version of the “Code of Conduct for Members of Council” for members of adjudicative boards that are local boards (restricted definition).

There is a separate version of the Code of Conduct for members of local boards (restricted definition) that are not adjudicative boards.

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:

- (1) “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”; and
- (2) “Report on Congruence between Lobbying By-law and Obligations under Members Code of Conduct” approved by Council on April 28 and 29, 2008 (EX 19.7, motions 1 and 2).

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 members of Council and the citizen members who are appointed to local boards by Council to act on its behalf. 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*. Although the title refers to Members of Council, it was also binding on citizen members of local boards.

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* and developed two separate versions for local boards. Each Code of Conduct is intended to supplement and be compatible with the laws governing the conduct of members.

This Code of Conduct is based on the following principles:

- Members of adjudicative boards shall serve and be seen to serve on these boards in a

- conscientious and diligent manner;
- Members of adjudicative boards shall be committed to performing their functions with integrity, and shall avoid the improper use of the influence of their office and conflicts of interest, both apparent and real;
 - Members of adjudicative boards 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;
 - Members of adjudicative boards shall seek to serve the City’s and the public’s interest by upholding both the letter and the spirit of applicable laws of the Federal Parliament and Ontario Legislature, and the laws and policies of Council and the adjudicative board of which they are a member; and
 - Members of adjudicative boards have a legal obligation under the *Ontario Human Rights Code* and the *Canadian Charter of Rights and Freedoms* to observe the principles of fairness, access, and equity, and to avoid discriminatory practices.

I. DEFINITIONS

In the *Code of Conduct*:

- (a) the following terms shall have the meanings indicated:

“adjudicative board” means a tribunal that is a local board;

“Council” means the Council of the City of Toronto;

“local board” means a local board as defined in section 156 of the *City of Toronto Act, 2006*; and

“member” means a member of an adjudicative board.

- (b) 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; and

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

II. APPLICATION

This Code of Conduct applies to members of adjudicative boards of the City of Toronto.

The current adjudicative boards are as follows:

- Committee of Adjustment;
- Committee of Revision;
- Property Standards Committee / Fence Viewers;
- Toronto Licensing Tribunal.

Members of Council are bound by the *Code of Conduct for Members of Council*. However, when a Member of Council is acting in her or his capacity as a member of an adjudicative board, the Member of Council is also bound by the provisions of this Code that are specific to the requirements of an adjudicative board.

III. STATUTORY PROVISIONS REGULATING CONDUCT

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members of adjudicative boards. The provincial legislation that governs the conduct of members of adjudicative boards includes, but is not limited to the following:

- the *City of Toronto Act, 2006* and, where applicable, 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 Freedom of Information and Protection of Privacy Act*; and
- the *Statutory Powers Procedure Act*.

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

IV. GIFTS AND BENEFITS

Caution – Hearing Limitations

While this Article permits a member to receive certain specified gifts and benefits, as a member of an adjudicative body, the members should always keep in mind that they may be required to remove themselves from a hearing on the basis of a conflict of interest or perception of bias as a result of a gift or benefit.

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) a suitable memento of a function honouring the member;
- (c) a political contribution otherwise reported by law, in the case of members running for office;
- (d) food, lodging, transportation and entertainment provided by provincial, regional and local governments or subdivisions of them, by the Federal government or by a foreign government within a foreign country;
- (e) food and beverages consumed at banquets, receptions or similar events, if:
 - 1. attendance serves a legitimate business purpose of the adjudicative board on which the member serves;
 - 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
- (f) communications that are educational or training materials received from professional associations related to similar tribunals.

These exceptions other than category (c) (political contributions allowable by law), do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying). For these purposes, a lobbyist is an individual, organization or business that:

- [i] is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- [ii] the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or
- [iii] is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

In the case of categories (b) (d) (e) and (f), 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 or the adjudicative board..

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 or adjudicative board.

Except in the case of categories (a) and (d) 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, or received in confidence by an adjudicative board that the adjudicative board is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as “MFIPPA”), or other legislation such as the board’s procedure by-law or the *Statutory Powers Procedure Act*.

Generally, the *Municipal Freedom of Information and Protection of Privacy Act* 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 to do so by the adjudicative board or, if applicable, by Council.

Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation, either directly or indirectly.

Under the City's Procedures By-law (passed under section 189 of the *City of Toronto Act, 2006*), or similar provisions of the adjudicative board's procedure by-law and subject to applicable legislation governing the procedures of the adjudicative board, 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 adjudicative board, or if applicable, Council or one of its committees 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 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 should not access or attempt to gain access to confidential information in the custody of the adjudicative board or City unless it is necessary for the performance of their duties and not prohibited by the adjudicative board or Council policy.

In the case of an adjudicative board which is subject to the *Statutory Powers Procedure Act*, that Act requires that an oral hearing be open to the public except where the tribunal is of the opinion that:

- matters involving public security may be disclosed; or
- intimate financial matters or personal matters may be disclosed at the hearing of such a nature that the desirability of avoiding disclosure outweighs the desirability of adhering to the principle of hearings being open to the public, when the interests of the public and persons affected are considered.

VI. COMMUNICATIONS WITH ADJUDICATIVE BOARDS

Written communication to an adjudicative board shall take place only through the board administrator, and shall be copied to all parties or their representatives as appropriate. Oral communications with the adjudicative board about a current proceeding shall take place only in the presence of or with the consent of all parties.

Where a party is represented by a representative, all communication between the adjudicative board and the party shall be through the representative, with the exception of notices of hearing, which shall be served upon all parties known to the adjudicative board as appropriate. The adjudicative board shall not be copied on correspondence and documents exchanged by parties, unless the board administrator has given prior approval to such copying.

VII. MEDIA COMMUNICATIONS

The Chair shall serve as the media contact for the entire adjudicative board where such contact is appropriate. Should the media contact a member directly, the member shall refer the enquiry to the Chair or, in the absence of the Chair, to the Chair's designate. The Chair may identify another member as the media contact for a specific issue.

VIII. USE OF BOARD AND CITY PROPERTY, SERVICES AND OTHER RESOURCES

No member should use, or permit the use of local board or City land, facilities, equipment, supplies, services, staff or other resources (for example, adjudicative board or City-owned materials, websites, local board and City transportation delivery services, and any members expense budgets) for activities other than the business of the adjudicative board or the City; nor should any member obtain personal financial gain from the use or sale of adjudicative board or 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 adjudicative board or City.

IX. ELECTION CAMPAIGN WORK

No member shall use the facilities, equipment, supplies, services or other resources of the adjudicative board or the City (including the adjudicative board's newsletters and websites linked through the adjudicative board's or City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on the adjudicative board's or City's property unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes where those persons receive compensation from the adjudicative board or the City.

X. IMPROPER USE OF INFLUENCE

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

Examples of prohibited conduct are: the use of one's status as a member of an adjudicative board 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 in the carrying out 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 the adjudicative board or at the City, 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, 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.

XI. BUSINESS RELATIONS

No member shall act as a paid agent before an agency, board or commission of the City, the Council and its committees, 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.

XII. 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 adjudicative board and to the City.

XIII. CONDUCT AT MEETINGS OF ADJUDICATIVE BOARD OR PANEL

Members shall conduct themselves with decorum at meetings of the adjudicative board and any hearing panel in accordance with the adjudicative board’s procedure by-law and this Code of Conduct as well as other applicable common law and statutory requirements. Where the adjudicative board’s procedure by-law does not address an issue, members should use Council’s Procedures By-law as a reference.

XIV. CONDUCT RESPECTING STAFF

Members shall be respectful of the role of staff of the adjudicative board and staff of the City to provide advice based on political neutrality and objectivity, and without undue influence from any individual member or faction of the adjudicative board. 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 staff.

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.

XV. CONDUCT RESPECTING LOBBYISTS

Caution – Hearing Limitations

While this Article recognises that lobbying public office holders at the municipal level is a permissible but regulated activity, lobbying of members of adjudicative boards is severely limited by the administrative law requirements that apply to hearings by adjudicative boards and other tribunals. In general, there can be no lobbying of members in relation to matters that are before or will come before the adjudicative body. The specific limitations on communications in Part VI reflect this.

Lobbying of public office holders is a permissible but regulated activity in the City of Toronto. Lobbying is defined and regulated by Municipal Code Chapter 140, Lobbying (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct).

Members and their staff are public office holders. As a matter of general principle, as public office holders, members should be familiar with the terms of this lobbying by-law inclusive of the Lobbyist Code of Conduct (Chapter 140).

Specifically, members should not engage knowingly in communications in respect of the list of subject matters contained in the definition of "Lobby" as set out in Chapter 140 with a person who is not registered as required by Chapter 140.

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

Members should also not knowingly communicate with a registered lobbyist as defined in Chapter 140 with respect to a matter that is, has been, or could become the subject of a hearing by the adjudicative board, whether written or oral.

If a member is or at any time becomes aware that a person is a lobbyist, the member should either refuse to deal with the lobbyist or, where appropriate, terminate the communication with the lobbyist at once.

A member should report any violations or attempted violation of Chapter 140 to the Lobbyist Registrar unless the member believes in good faith that the violation in communicating or attempting to communicate with the member was inadvertent or insignificant.

XVI. INDEPENDENT NATURE OF ADJUDICATIVE BOARDS

The Chairs of an adjudicative board should ensure that the actions of any member, as well as Council members and staff attending adjudicative board meetings, are consistent with the arm's-length, quasi-judicial nature of the adjudicative board. Any actions compromising this position should be immediately dealt with by the Chair or panel chair.²

² City Council decision of February 5, 6, 7 and 8, 2007; *Review Of Certain Applications before the North York Committee of Adjustment on September 22, 2005.*

Members of adjudicative boards operating at arm's-length from Council should refrain from seeking advice on their roles and responsibilities from Council members. In clarifying their roles and responsibilities, members should seek advice from appropriate legal staff or expert staff where such advisors are not otherwise involved in the case.

An adjudicative tribunal is required by the applicable laws to operate at arm's-length from and independently of Council. Members should therefore not request Community Councils or other legislative bodies to intervene on applications considered by the adjudicative board.³

XVII. DISCREDITABLE CONDUCT

All members have a duty to treat members of the public, each another and staff appropriately and without abuse, bullying or intimidation, and to ensure that their proceedings and work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies, and, if applicable, the Human Rights and Anti-harassment Policy adopted by Council at its meeting of December 16 and 17, 1998 or its successor policy⁴, and the Hate Activity Policy adopted by Council December 16 and 17, 1998.

XVIII. FAILURE TO ADHERE TO COUNCIL OR ADJUDICATIVE BOARD POLICIES AND PROCEDURES

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members are required to observe the terms of all policies and procedures established by the adjudicative board and any Council policy and procedures that apply to the adjudicative board or its members.

This provision does not prevent a member from requesting that Council or the adjudicative board grant an exemption from a policy.

XIX. REPRISALS AND OBSTRUCTION

Members 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.

³ Ibid.

⁴ As may be considered/amended by Council June 23, 2008.

XX. 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.

XXI. COMPLIANCE WITH THE CODE OF CONDUCT

Subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council as well as adjudicative boards, to impose either of two penalties on a member 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, if applicable, paid to the member in respect of his or her services as a member of the adjudicative board, as the case may be, for a period of up to 90 days.

In the case of a member of the adjudicative board who is a Member of Council, Council may also consider suspension of the remuneration, paid to the member in respect of his or her services as a Member of Council, for a period of up to 90 days.

Other Actions

The Integrity Commissioner may also recommend that Council or an adjudicative board that has authority to do so, take the following actions:

6. Removal from membership of a committee, sub-committee or panel of a local board or City Council.
7. Removal as Chair of a local board, or a committee or subcommittee of a local board or of Council.
8. Repayment or reimbursement of moneys received.
9. Return of property or reimbursement of its value.
10. A request for an apology to the local board, Council, the complainant, or to a combination of any of them.



Appendix III

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL
CITY OF TORONTO**

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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:

- (1) “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”; and
- (2) “Report on Congruence between Lobbying By-law and Obligations under Members Code of Conduct” approved by Council on April 28 and 29, 2008 (EX 19.7, motions 1 and 2).

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. 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 of the Federal Parliament and Ontario Legislature, and the laws and policies adopted by City Council.

I. 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; and

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

II. STATUTORY PROVISIONS REGULATING CONDUCT

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members. The following provincial legislation governs 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.

III. APPLICATION

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

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 in the case of members running for office;
- (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) (political contributions allowable by law), these exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying). For these purposes, a lobbyist is an individual, organization or business that:

- [i] is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- [ii] the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or

[iii] is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

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 categories (a), (c) and (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, or received in confidence by 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* (often referred to as “MFIPPA”), or other legislation. Generally, the *Municipal Freedom of Information and Protection of Privacy Act* 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 Procedures 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, websites, Council transportation delivery services and member of Council expense budgets) for activities other than the business of the Corporation. Nor should any member obtain personal 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 unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes 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 AND COMMITTEE MEETINGS

Members shall conduct themselves with decorum at Council and committee meetings 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 serve 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 provide advice 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 staff.

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 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 of public office holders is a permissible but regulated activity in the City of Toronto. Lobbying is defined and regulated by Municipal Code Chapter 140, Lobbying (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct).

Members of Council and their staff are public office holders. As a matter of general principle, as public office holders, members of Council should be familiar with the terms of this lobbying by-law inclusive of the Lobbyist Code of Conduct (Chapter 140).

Specifically, members of Council should not engage knowingly in communications in respect of the list of subject matters contained in the definition of "Lobby" as set out 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.

If a member of Council is or at any time becomes aware that a person is in violation of Chapter 140, the member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by Chapter 140.

A member should report any such violation or attempted violation of Chapter 140 to the Lobbyist Registrar unless the member believes in good faith that the violation in communicating or attempting to communicate with the member was inadvertent or insignificant.

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 and if applicable, the Human Rights and Anti-harassment Policy adopted by Council at its meeting of December 16 and 17, 1998 or its successor policy⁵, and the Hate Activity Policy adopted by Council 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.

⁵ As may be considered/amended by Council June 23, 2008.

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 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 a 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.

Appendix IV

CODE OF CONDUCT COMPLAINT PROTOCOL FOR MEMBERS OF LOCAL BOARDS (RESTRICTED DEFINITION) INCLUDING ADJUDICATIVE BOARDS

Authority: Clause No.4 of Report No.2 of the Policy and Finance Committee, March 1, 2 and 3, 2004 as amended by:

- (1) Clause No.1 of Report No.3 of the Policy and Finance Committee, held on April 25, 26 and 27, 2006; Item CC2.5 as adopted and amended by Council at its meeting held on February 5, 6, 7 and 8, 2007; Item CC11.8 as adopted by Council at its meeting held on July 16, 17, 18 and 19, 2007; and*
- (2) Notice of Motion M148, as adopted by Council at its meeting held on October 22 and 23, 2007.*

Application

This Code of Conduct Complaint Protocol applies to local boards (restricted definition), including adjudicative boards that are local boards (restricted definition).

The Informal Complaint Procedure in Part A does not apply to members of adjudicative boards. Complaints regarding members of adjudicative boards must be processed under the Formal Complaint Procedure in Part B.

PART A: INFORMAL COMPLAINT PROCEDURE

Individuals (for example, City employees, members of the public, members of Council or local boards (restricted definition) (the “Board”), or organizations (including Boards) who have identified or witnessed behaviour or an activity by a member of a Board, other than an adjudicative board, that they believe is in contravention of the *Code of Conduct for Members of Local Boards (Restricted Definition)*, (the “Code of Conduct”), may wish to address the prohibited behaviour or activity themselves by taking the following actions through the Chair of the Board. If the complaint is about the Chair’s behaviour or activity, the complainant shall consult with the Integrity Commissioner on the appropriate contact.

- (1) request the Chair to advise the member that the behaviour or activity contravenes the Code of Conduct;
- (2) request the Chair to encourage the member to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) tell someone else (for example, a senior staff member or an officer of the organization) about your concerns, your comments to the member and the response of the member;
- (5) if applicable, through the Chair confirm to the member your satisfaction with the response of the member; or, if applicable, through the Chair advise the member of your dissatisfaction with the response; and
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure (except for complaints regarding members of adjudicative boards) as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. With the consent of the complaining individual or organization and the member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a

prerequisite that those complaining pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE: Integrity Commissioner

Statutory Authority:

Under section 160 of the *City of Toronto Act, 2006*:

- [a] City Council (“Council”), a member of council or a member of the public may request the Integrity Commissioner to conduct an inquiry about whether a member of a local board (restricted definition) has contravened the *Code of Conduct for Members of Local Boards (Restricted Definition)*, or, where applicable, the *Code of Conduct for Members of Adjudicative Boards*; and
- [b] a local board (restricted definition) or a member of a local board (restricted definition) may request the Integrity Commissioner to conduct an inquiry about whether a member of the local board (restricted definition) has contravened the Code of Conduct.

Application

The Formal Complaints Procedure in this Part applies to complaints regarding members of local boards (restricted definition) including members of adjudicative boards.

In this Part, the applicable Code of Conduct as noted above is referred to as the “Code of Conduct” and a local board (restricted definition) is referred to as a “Board”.

Requests for Inquiries s.1

- Complaint
1. (1) A request for an investigation of a complaint that a member has contravened the Code of Conduct (the “complaint”) shall be in writing.
 - (2) All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).

- (3) A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code of Conduct and include a supporting affidavit that sets out the evidence in support of the complaint.

For example, the complaint and supporting affidavit should include the name of the alleged violator, the provision allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.

- (4) Staff of the City Clerk's division, who are commissioners for taking affidavits, are authorized to take the supporting affidavit.
- (5) Despite subsection (3), the Integrity Commissioner may waive the requirement for an affidavit when the request for an inquiry is from Council or a local board (restricted definition).

Initial Classification by Integrity Commissioner s. 2

File with Clerk

2. (1) The request shall be filed with the City Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council or Board policies as described in subsection (3).

Deferral

- (2) If the complaint does not include a supporting affidavit, the Integrity Commissioner may defer the classification until an affidavit is received.
- (3) If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council or Board policy, the Integrity Commissioner shall instruct the City Clerk to advise the complainant in writing as follows:
 - (a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
 - (b) if the complaint on its face is with respect to non-

compliance with the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with the complainant's own legal counsel;

- (c) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the City's Director of the Corporate Access and Privacy office or, if these complaints are processed by the Board, the head of the Board's access and privacy office;
- (d) if the complaint on its face is with respect to non-compliance with a more specific Council or Board policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and
- (e) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

Reports

- (4) The Integrity Commissioner may report to Council or the Board that a specific complaint is not within the jurisdiction of the Integrity Commissioner.
- (5) The Integrity Commissioner shall report annually to Council or a Board on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation ss. 3 - 9

Refusal to Conduct Investigation

- 3. (1) If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.
- (2) Other than in exceptional circumstances, the Integrity Commissioner will not report to Council or a Board on any complaint described in subsection (1) except as part of an annual

or other periodic report.

- Investigation & Settlement
4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and may attempt to settle the complaint.
- Public Inquiries Act*
- (2) Under subsection 160(2) of the *City of Toronto Act, 2006*, the Integrity Commissioner may elect to investigate a complaint by exercise of the powers of a commission under Parts I and II of the *Public Inquiries Act*.
- (3) When the *Public Inquiries Act* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.
5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act*:
- (a) serve the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within ten days; and
- (b) serve a copy of the response provided upon the complainant with a request for a written reply within ten days.
- Access
- (2) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 160(3) and (4) of the *City of Toronto Act, 2006*, and may enter any City or Board work location relevant to the complaint for the purposes of investigation and settlement.
- Opportunity to Comment
- (3) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any member unless the member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.

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| Interim Reports | (4) The Integrity Commissioner may make interim reports to Council or the Board where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation. |
| Final Report | 6. (1) The Integrity Commissioner shall report to the complainant and the member generally no later than 90 days after the making of the complaint.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council or the Board, or both if appropriate, outlining the findings, the terms of any settlement, or recommended corrective action.

(3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council or the Board except as part of an annual or other periodic report. |
| Lawful recommendations | (4) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue. |
| Member not Blameworthy | 7. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed. |
| Copies | 8. The City Clerk shall give a copy of the report to the complainant and the member whose conduct is concerned. |
| Report to Council or Board | 9. The City Clerk shall process the report for the next meeting of Council or of a Board where appropriate, or both if required. |

Council or Board Review ss. 10 – 12

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| Duty of Council or Board | 10. (1) Council or the Board shall consider and respond to the report within 90 days after the day the report is laid before it.

(2) In responding to the report, Council or the Board may vary a recommendation that it impose a penalty, subject to subsection 160(5) of the <i>City of Toronto Act, 2006</i> , but shall not refer the recommendation other than back to the Integrity Commissioner. |
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Payment of Costs

- 11.(1) A complainant and a member who are parties to a complaint under this procedure shall each be reimbursed for actual and reasonable legal and related expenses up to a maximum of:
- (a) \$5,000; or
 - (b) \$20,000, if the Integrity Commissioner has elected to investigate the complaint by exercise of the powers of a commission under Parts I and II of the *Public Inquiries Act*.
- (2) In the case of an application under the *Judicial Review Procedure Act* for judicial review of actions taken on a complaint against a member of a Board by the Integrity Commissioner, Council or a Board:
- (a) where a member made the judicial review application, the member is eligible for reimbursement of legal costs, including additional legal costs in a successful application, that are not covered by the costs awarded by the court, up to a maximum of \$20,000.
 - (b) a member may apply for reimbursement of the legal costs of intervention in a judicial review application where the member's interests are at stake, up to a maximum of \$20,000.
- (3) Council or a Board may consider the reimbursement of costs above the limit in subsections (1) and (2) on a case by case basis.
- (4) Costs may be provided in advance in an investigation, if the Integrity Commissioner is of the opinion that the use of a lawyer by one or more of the parties would facilitate the carrying out of the investigation, and subsections (5) and (6) do not apply to the advance costs paid under this subsection.
- (5) Costs shall only be reimbursed under this section to the complainant, if the Integrity Commissioner concludes that the complaint is not frivolous, vexatious or made in bad faith and the Integrity Commissioner's conclusion is not overturned on judicial review.
- (6) Costs shall only be reimbursed under this section to the member:
- (a) if the Integrity Commissioner concludes that there has been no contravention of the Code of Conduct by the member or

that the member is not blameworthy as described in section 7, and the Integrity Commissioner's conclusion is not overturned on judicial review; or

(b) where Council or the Board receives the Integrity Commissioner's report on a violation and determines that it should not take any action.

(7) Any award of costs under subsection (6) shall be contingent on a report from the City Solicitor in consultation with the Integrity Commissioner.

Confidentiality

12. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 161 and 162 of the *City of Toronto Act, 2006*, which are summarized in the following subsections.

(2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Part V of the *City of Toronto Act, 2006*.

(3) All reports from the Integrity Commissioner to Council or a Board will be made available to the public.

(4) Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

(5) The Integrity Commissioner in a report to Council or a Board on whether a member of the Board has violated the Code of Conduct shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

Appendix V

CODE OF CONDUCT COMPLAINT PROTOCOL FOR MEMBERS OF COUNCIL

Authority: Clause No.4 of Report No.2 of the Policy and Finance Committee, March 1, 2 and 3, 2004 as amended by:

- (1) Clause No.1 of Report No.3 of the Policy and Finance Committee, held on April 25, 26 and 27, 2006; Item CC2.5 as adopted and amended by Council at its meeting held on February 5, 6, 7 and 8, 2007; Item CC11.8 as adopted by Council at its meeting held on July 16, 17, 18 and 19, 2007; and*
- (2) Notice of Motion M148, as adopted by Council at its meeting held on October 22 and 23, 2007.*

PART A: INFORMAL COMPLAINT PROCEDURE

Individuals (for example, City employees, members of the public, members of Council or local boards (restricted definition), or organizations (including local boards (restricted definition) who have identified or witnessed behaviour or an activity by a member of Council that they believe is in contravention of the *Code of Conduct for Members of Council* (the “Code of Conduct”) may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the member that the behaviour or activity contravenes the Code of Conduct;
- (2) encourage the member to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons

- present, and any other relevant information;
- (4) tell someone else (for example, a senior staff member or an officer of the organization) about your concerns, your comments to the member and the response of the member;
 - (5) if applicable, confirm to the member your satisfaction with the response of the member; or, if applicable, advise the member of your dissatisfaction with the response; and
 - (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. With the consent of the complaining individual or organization and the member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE: Integrity Commissioner

Statutory Authority:

Under section 160 of the *City of Toronto Act, 2006*, City Council (“Council”), a member of council or a member of the public may request the Integrity Commissioner to conduct an inquiry about whether a member of council or of a local board (restricted definition) has contravened the *Code of Conduct for Members of Council and Local Boards (Restricted Definition)* (the “Code of Conduct”).

Requests for Inquiries s.1

- Complaint
1. (1) A request for an investigation of a complaint that a member has contravened the Code of Conduct (the “complaint”) shall be in writing.
 - (2) All complaints shall be signed by an identifiable

individual (which includes the authorized signing officer of an organization).

- (3) A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code of Conduct and include a supporting affidavit that sets out the evidence in support of the complaint.

For example, the complaint and supporting affidavit should include the name of the alleged violator, the provision allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.

- (4) Staff of the City Clerk's division, who are commissioners for taking affidavits, are authorized to take the supporting affidavit.
- (5) Despite subsection (3), the Integrity Commissioner may waive the requirement for an affidavit when the request for an inquiry is from Council or a local board (restricted definition).

Initial Classification by Integrity Commissioner s. 2

File with Clerk

2. (1) The request shall be filed with the City Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council policies as described in subsection (3).

Deferral

- (2) If the complaint does not include a supporting affidavit, the Integrity Commissioner may defer the classification until an affidavit is received.
- (3) If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall instruct the City Clerk to advise the complainant in writing as follows:

- (f) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
- (g) if the complaint on its face is with respect to non-compliance with the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with the complainant's own legal counsel;
- (h) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the City's Director of the Corporate Access and Privacy office;
- (i) if the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and
- (j) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

Reports

- (4) The Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner.
- (5) The Integrity Commissioner shall report annually to Council on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation ss. 3 - 9

Refusal to Conduct Investigation

- 3. (1) If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity

Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

- (2) Other than in exceptional circumstances, the Integrity Commissioner will not report to Council on any complaint described in subsection (1) except as part of an annual or other periodic report.

Investigation & Settlement

- 4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and may attempt to settle the complaint.

Public Inquiries Act

- (2) Under subsection 160(2) of the *City of Toronto Act, 2006*, the Integrity Commissioner may elect to investigate a complaint by exercise of the powers of a commission under Parts I and II of the *Public Inquiries Act*.

- (3) When the *Public Inquiries Act* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.

- 5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act*:

- (c) serve the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within ten days; and
- (d) serve a copy of the response provided upon the complainant with a request for a written reply within ten days.

Access

- (2) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 160(3) and (4) of the *City of Toronto Act, 2006*, and may enter any City work location

relevant to the complaint for the purposes of investigation and settlement.

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| Opportunity to Comment | (3) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any member unless the member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction. |
| Interim Reports | (4) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation. |
| Final Report | 6. (1) The Integrity Commissioner shall report to the complainant and the member generally no later than 90 days after the making of the complaint.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings, the terms of any settlement, or recommended corrective action.

(3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council except as part of an annual or other periodic report. |
| Lawful recommendations | (4) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue. |
| Member not Blameworthy | 7. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed. |
| Copies | 8. The City Clerk shall give a copy of the report to the complainant and the member whose conduct is concerned. |

Report to Council 9. The City Clerk shall process the report for the next meeting of Council

Council Review ss. 10 - 12

Duty of Council 10. (1) Council shall consider and respond to the report within 90 days after the day the report is laid before it.

(2) In responding to the report, Council may vary a recommendation that it impose a penalty, subject to subsection 160(5) of the *City of Toronto Act, 2006*, but shall not refer the recommendation other than back to the Integrity Commissioner.

Payment of Costs 11. (1) Subject to this section, claims for reimbursement by a member of Council for costs under this section shall be processed under the Indemnification Policy for Members of Council and the tariff as set out in the policy, as amended, applies to all claims for reimbursement under this section. *[Note this section will be revised as necessary after Council deals with the City Managers report on changes to this policy.]*

(2) A complainant and a member who are parties to a complaint under this procedure shall each be reimbursed for actual and reasonable legal and related expenses up to a maximum of:

(a) \$5,000; or

(b) \$20,000, if the Integrity Commissioner has elected to investigate the complaint by exercise of the powers of a commission under Parts I and II of the *Public Inquiries Act*.

(3) In the case of an application under the *Judicial Review Procedure Act* for judicial review of actions taken on a complaint against a member of council by the Integrity Commissioner, Council :

(a) where a member made the judicial review application, the member is eligible for reimbursement of legal costs, including additional legal costs in a successful application, that are not covered by the costs awarded by the court, up to a

maximum of \$20,000.

- (b) a member may apply for reimbursement of the legal costs of intervention in a judicial review application where the member's interests are at stake, up to a maximum of \$20,000.
- (4) Council may consider the reimbursement of costs above the limit in subsections (2) and (3) on a case by case basis.
 - (5) Costs may be provided in advance in an investigation, if the Integrity Commissioner is of the opinion that the use of a lawyer by one or more of the parties would facilitate the carrying out of the investigation, and subsections (6) and (7) do not apply to the advance costs paid under this subsection.
 - (6) Costs shall only be reimbursed under this section to the complainant, if the Integrity Commissioner concludes that the complaint is not frivolous, vexatious or made in bad faith and the Integrity Commissioner's conclusion is not overturned on judicial review.
 - (7) Costs shall only be reimbursed under this section to the member:
 - (a) if the Integrity Commissioner concludes that there has been no contravention of the Code of Conduct by the member or that the member is not blameworthy as described in section 7, and the Integrity Commissioner's conclusion is not overturned on judicial review; or
 - (b) where Council receives the Integrity Commissioner's report on a violation and determines that it should not take any action.
 - (8) Any award of costs under subsection (7) shall be contingent on a report from the City Solicitor in consultation with the Integrity Commissioner.

Confidentiality

- 12. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 161 and 162 of the *City of Toronto Act, 2006*, which are summarized in the following subsections.

- (2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Part V of the *City of Toronto Act, 2006*.
- (3) All reports from the Integrity Commissioner to Council will be made available to the public.
- (4) Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.
- (5) The Integrity Commissioner in a report to Council on whether a member has violated the Code of Conduct shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.



Appendix VI

DONATIONS TO COUNCILLOR-RUN COMMUNITY EVENTS AND PROGRAMS

ISSUE BACKGROUND

At its meeting of October 1, 2 and 3, 2002, Council adopted a policy on “Use of Corporate Logo, Donations and Sponsorships and Personal Funds by Members of Council.” This included a prohibition on Members of Council receiving funds “outside of their allocated operating budgets.”

Article IV of the *Code of Conduct for Members of Council and Local Boards (Restricted Definition)* (“Code of Conduct”) bans Members from accepting gifts and benefits unless the gift or benefit comes within a specific exception. The exceptions do not include donations of funds, services and goods to community events that Members organize or run.

The effect of the current policies is that Members are technically not permitted to accept sponsorships and donations for events that they organize or run in their Wards. Moreover, this is the interpretation that the City Clerk’s office (through the Director, Council & Support Services) has been applying in her supervision of the office budgets of Members. This is also the basis for an FAQ that appeared in a summary of the gifts and benefits rules that my office distributed to Members:

Q8. A Councillor is organizing a community event and local businesses and developers offer assistance in the form of food, equipment, giveaways and financial support. May the Member accept?

A. No. These are in effect gifts and benefits to the Member and do not constitute contributions that are acceptable as an incident of protocol or social obligation, especially if they are solicited. To the extent that annual events of this kind have become part of the life of the Member’s Ward, the solution rests in running the event through a community organization or similar group.

This attracted concern on the part of some Members and led to the motion at the September 26 and 27, 2007 meeting of Council asking me to review the current policies and report back to the Executive Committee.

COMMENTS

Members of Council are involved in community events in a great variety of ways. A few restrict themselves to attending Ward events organized by others. Most do more than this. Some provide financial support through their office expense account to community events staged by groups operating in their Ward, relying on their entitlement under the current rules to provide support to community groups up to \$600 a year. Others organize their own events and simply use their office budget to pay for them.

From my meetings with the vast majority of Members, it is clear that many go further. They solicit support from others or respond to offers of support. Sometimes, that support is internal to the City in the form of assistance of various kinds from divisions and agencies such as Parks and Recreation, the Police and Fire Services, and the Zoo. On occasion, Councillors will also team with other elected officials such as the local M.P. or M.P.P., or a community group. Frequently, however, the support will come from the business community and sometimes constituent donations. Some members also solicit donations not for events but for ongoing programs that they want to establish and run in their Wards.

At least one prominent corporation makes it known to all Members of Council that it is prepared to provide support in the form of equipment and personnel for at least two events a year. In most instances, the support in money and kind for community events and programs results from Members and their staff actively soliciting from businesses in their Wards. The targets of the solicitation range from single venue, truly local businesses (and particularly food and beverage retailers) to major corporations (such as banks) that have operations across the City, and include developers with projects in the Ward.

The overall costs of these community events (leaving aside the time of Members and their staff) vary dramatically from below \$200 to well over five figures (and six in the case of some community events that have expanded over the years and are now being run by third parties with limited involvement on the part of the Councillor). In most instances, the external support for the event will come from a variety of sources. However, in a few instances, a single business will pay for the entire event and expect appropriate recognition for doing so.

The nature of the events themselves also varies dramatically. Most common are annual picnics and barbecues, often associated with Canada Day or Environment Day. However, there are also movie nights, skating parties, food and music festivals, golf tournaments, and events staged around a particular cause or issue such as literacy. At most, the food, beverages and entertainment are provided free of charge. However, at some of the larger events, there will be stalls where businesses are operating for profit. Some also have charitable fund-raising as their principal target or as one of the objectives.

In most instances, it is not expected that there will be any surplus of funds or provisions at the end of the event. However, in the case of some annual events, there is equipment that will be used from year to year and ongoing accounts in which a surplus will be carried over. The same is true in the case of Ward programs organized and run by the Member. Except where the Member has used a third party to organize the event, the account will be in the name of the Member.

Whether anyone else has signing authority over the account varies.

Members vary in their views about the appropriateness of such activities almost as greatly as the variety and size of this form of community engagement. However, among Members who were the strongest supporters of Councillor-organized and assisted community events and programs, two factors stood out. First, Members whose Wards (or substantial pockets of which) are ethnically diverse and/or lower income tended to be strong supporters of a very active program of community events. Secondly, and there is some overlap with the first category, the attitude of many Members depended upon the municipality of Toronto in which their Ward was located prior to amalgamation. In some of the pre-amalgamation municipalities, there was a strong tradition of Councillor-organized community events and a continuing expectation on the part of constituents that those events would continue.

Because of the great variety of community activities that Members promote, the differing ways in which they are organized and funded, and the range of views that Members have about the legitimacy of these activities and certain kinds of funding arrangement in particular, the writing of regulatory policies and rules is a massive challenge. Nonetheless, it seems a necessary exercise.

Council has a policy limiting the extent to which Members can accept gifts and benefits. Donations to Members for community events and programs are clearly gifts and benefits even though they are passed on to others. If Councillors are to continue to engage in this kind of activity, the current gifts and benefits rule in the *Code of Conduct* has to be revised. Indeed, many Members are anxious for guidance as to what is appropriate. That is because it is obvious that certain kinds of donations to and involvement in community events and programs raise serious ethical concerns and can bring into question the integrity of Members accepting this kind of support.