



CODE OF CONDUCT FOR MEMBERS OF COUNCIL CITY OF TORONTO

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AUTHORITY

Consolidated Code of Conduct for Members of Council, including:

Historic

- (1) “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:
 - (a) “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
 - (b) “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).

Current

- (2) This Code of Conduct for Members of Council was amended and adopted by City Council on July 15, 16, and 17, 2008 (2008) EX22.6, as amended by Council) and amended by Council on July 6 and 7, 2010.

KEY STATEMENTS OF PRINCIPLE

The quality of public administration and governance depends on encouraging high standards of conduct on the part of all government officials. The public is entitled to expect the highest standards of conduct from the members that it elects to local government. Adherence to these standards will protect and maintain the City of Toronto’s reputation and integrity.

This Code of Conduct is intended to supplement and be compatible with the laws governing the conduct of members.

The following principles are a guide to the interpretation and application of the Code of Conduct:

- 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. STATUTORY PROVISIONS REGULATING CONDUCT

This *Code of Conduct* operates along with and ~~as a~~ supplements to the existing statutes governing the conduct of members in all their roles. The following provincial and federal 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 *Occupational Health and Safety Act*;
- the *Ontario Human Rights Code*;
- the *Controlled Drugs and Substances Act*;
- the *Provincial Offences Act*; and
- the *Criminal Code* of Canada.

II. DEFINITIONS

"agencies" include local boards of the City of Toronto as defined in the *City of Toronto Act, 2006*.

"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;

"members of Council" means Councillors and the Mayor;

"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;

"person" means natural and corporate persons; and

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

III. APPLICATION

This *Code of Conduct* applies to all members of Council.

On taking office, members shall declare their acknowledgement that they are bound by the *Code of Conduct* using the Declaration Form.

IV. CONDUCT RESPECTING LOBBYISTS

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.

Members of Council shall not solicit or accept a gift, benefit or hospitality from a lobbyist.

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).

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.

V. GIFTS & BENEFITS

No member shall accept a gift, favour, fee, hospitality or benefit ("gifts or benefits") 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 gift or benefit provided at the member's direction to another person 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. These exceptions do not apply to lobbyists who are not permitted to extend gifts or benefits to members:

- (a) compensation authorized by law;
- (b) such gifts, ~~or~~ benefits or hospitality that are received as an incident of protocol or social obligation;
- (c) services provided without compensation by persons volunteering their time;
- (d) a suitable memento of a function honouring the member;
- (e) 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, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- (f) 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;
- (g) communication to the offices of a member, including subscriptions to newspapers and periodicals; and
- (h) sponsorships and donations for community events organized or run by a member or a third party on behalf of a member, subject to the limitations set out in the Policy on Council Member-Organized Community Events.

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.

Disclosure Statements

In the case of all categories except (a) 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 in accordance with the prescribed disclosure form(s) and procedure.

Any disclosure statement will be a matter of public record and will be disclosed on the internet alongside the posting of Member expenses and in the Annual Report on Remuneration and Expenses for Members of Council.

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), (e) and (h), 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.

VI. CONFIDENTIAL 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. This is a continuous obligation that extends beyond the member's term of office.

Members shall not 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.

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.

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, or received in confidence from other governments. 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.

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 may be 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 Freedom of Information and Protection of Privacy Act*;
- statistical data required by law not to be released (e.g. certain census or assessment data); and
- Information subject to solicitor-client privilege.

If there is uncertainty about whether information is confidential, the Councillor should check with the appropriate division staff or seek the advice of the Integrity Commissioner.

VII. USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES

No member of Council should use, or permit the use of City employees, City events, City facilities, City funds, City information and City infrastructure or other resources (for example, City-owned materials, websites, and Constituency Services and Office Budget) for activities other than the business of the Corporation. No member may 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.

VIII. ELECTION CAMPAIGN WORK

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. Election activity refers to campaigns for municipal, provincial and federal office or campaigns on a question on a ballot.

IX. 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. This includes refraining from using one's status to improperly influence the decision of another person to improperly prejudice another person or persons.

For the purposes of this provision, "private advantage" and "improperly prejudice" 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) a Committee or Council matter that concerns the remuneration or benefits of a member of Council.

X. BUSINESS RELATIONS

No member shall act as an agent before Council, its committees, or City agencies.

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

XI. CONDUCT REGARDING CURRENT & 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.

XII. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS

A member of Council does best when he acts in service of the people who elect him. She strives to speak clearly and honestly. He does not attack or demonize those who complain or do not agree with him. She is careful with the people's trust and resources. When faced with a complaint, he looks for what he can learn. She apologizes with generosity and forgives with equanimity. All members of Council can set a good example for the future leaders who are among them.

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).

XIII. CONDUCT RESPECTING STAFF MEMBERS

No member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff members of the City ("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. No member shall use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any Staff with the intent of interfering with that person's duties, including the duty to disclose improper activity.

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.

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.

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 Staff in both the carrying out of their responsibilities and in dealing with Council.

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 *Occupational Health and Safety Act*, including its workplace violence provisions, applies. The *Ontario Human Rights Code* applies and if applicable, the City's *Human Rights and Anti-harassment Policy*, and *Hate Activity Policy*.

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 are obliged to cooperate with 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

Where a member has received written advice from the Integrity Commissioner on a particular matter, the advice is binding on City Council in any subsequent consideration of the conduct of the member in the same matter as long as the member disclosed all relevant facts to the Integrity Commissioner.

XVIII. COMPLIANCE WITH THE CODE OF CONDUCT

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 Remedial Measures

City Council may take the following actions following a report by the Integrity Commissioner:

1. Remove a member from his or her membership of a Committee or local board (restricted definition).
2. Remove a member as Chair of a Committee or local board (restricted definition).
3. Request the repayment or reimbursement of monies improperly received by the member or received by another person at the direction of the member or demand suspension of remuneration.
4. Request the return of a gift or benefit or reimbursement of its value where the gift or benefit is received by the member or by another person at the direction of the member or recommend suspension of remuneration.
5. A request for an apology verbally and/or in writing to Council, the complainant, and/or any other person affected by the member's conduct.
6. In the event that a member does not return the gift, benefit or monies that are the subject of a request under number 3 and number 4, City Council may then consider suspension of the remuneration of the member pursuant to the *City of Toronto Act, 2006*.