

Code of Conduct Workshop Greater Sudbury March 19, 2019

Roles and Responsibilities

This Code of Conduct operates along with and as a supplement to Federal and Provincial legislation that govern the conduct of members of Council, those being:

- * The Criminal Code of Canada;
- * The Municipal Conflict of Interest Act,
- * The Municipal Elections Act, 1996
- * The Municipal Freedom of Information and Protection of Privacy Act;
- * The Municipal Act,
- * The Human Rights Code
- * Planning Act
- * All by-laws and policies approved by Council of the City of * * * *

Key Principles

General Principles

- 4.(1) Every Member shall serve, and be seen to serve, the public in a conscientious and diligent manner.
- (2) Every Member shall perform their functions with integrity, accountability and transparency and avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real.
- (3) Every Member shall perform their Official Duties in a manner that promotes public confidence.

Key Principles, Cont'd

- (4) Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and the By-laws, rules, procedures and policies of Council pertaining to their position as an elected official.
- (5) Members should act in a manner which recognizes that the public has a right to open government and transparent decision making, while acknowledging all rules regarding confidentiality contained in this Code of Conduct and in other legislation.

Principles are not Rules

Legal Opinion to Toronto Integrity Commissioner – 2005

“Therefore we conclude that the statement of principles in the Code Conduct do not provide an independent or stand alone set of obligations, the alleged violation of which, can be the proper subject of an investigation by the Integrity Commissioner”

Code applies to Members of Council and Local Boards

- * **2.** This Code applies to every Member. This Code shall be applied to all members of Local Boards who are not members of Council, with necessary modifications applied in the discretion of the Integrity Commissioner.

Rule 1: Disclosure of Confidential Information

6.(1) No Member shall, contrary to any applicable privacy law, disclose, release by any means or in any way divulge to any person or to the public, any Confidential Information, including without limitation any personal information as that term is used in the *Municipal Freedom of Information and Protection of Privacy Act*, acquired by virtue of their office, except when required by law or authorized by Council or the Local Board to do so.

(2)
other
their
mails and
documents, such
other gain of the
Member or cause
the public or others.

No Member shall misuse Confidential Information or information that they have knowledge of by virtue of position that is not in the public domain, including e-correspondence, consultant's reports, draft that the use thereof may lead to financial or Member or of any person related to the detriment to the City, Council, a Local Board,

Rule 1: Disclosure of Confidential Information Cont'd

- (3) Except for information that is relevant to matters before Council, a committee of Council or the Local Board as the case may be, Members enjoy the same level of access right to information as any other member of the community and must follow the same processes as any private citizen. No Member shall access or attempt to gain access to Confidential Information in the possession of the City or Local Board, unless it is necessary for the performance of their Official Duties and not prohibited by Council or Local Board policy.
- (4) Every Member shall ensure they comply with the *Municipal Act, 2001, Municipal Conflict of Interest Act, Municipal Freedom of Information and Protection of Privacy Act*, and other applicable legislation regarding open meetings, accountability and transparency.

Rule 2: Undue Use of Influence

- 13.(1)** No Member shall use the influence of their office for any purpose other than the performance of the Member's responsibilities as a Member, and other Official Duties.
- (2)** In addition to the general requirement contained in subsection 13.(1):
- (a)** No Member shall use their status as a Member to influence, or try to influence, improperly, any action or decision of another person or entity to the private advantage of:
- (i)** the Member;
 - (ii)** any Family Member;
 - (iii)** any business or other associate;
or attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of constituents as part of their Official Duties;

Rule 3: Staff Relations

- 14.(1) Only Council as a whole and no single Member, including the Mayor, has the authority to direct employees, approve budgets, policy, and other such matters, unless specifically authorized by Council.
- (2) Every Member shall be respectful of the role of City officers and employees to provide professional service and advice based on political or neutrality and objectivity, and without undue influence from any one or more Members. Members shall refrain from any conduct which may deter, interfere or unduly influence employees in the performance of the their duties, obligations and any standards of conduct prescribed for employee's profession.
- (3) No Member shall maliciously, falsely, negligently, recklessly, or otherwise improperly, injure the professional or ethical reputation, or the prospects or practice, of any one or more City employees.

Rule 4: Gifts

9.1 No Member shall accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless authorized by one of the exceptions below.

Exceptions:

- (a) gifts received as an incident of protocol or social obligation that normally accompany the responsibilities of elected office;
- (f) services provided without compensation by persons volunteering their time;

Rule 4: Gifts Cont'd

- * Exceptions (Cont'd):
- * (g) a suitable memento of a function with nominal value, honouring the Member or the City;
- * (i) food, beverages and/or admission fees provided by banquets, receptions or similar events if attendance is the result of protocol or social obligation consistent with the responsibilities of office, and the person extending the invitation has done so infrequently and that person or a representative of the organization is in attendance;

Rule 5: Use of City Property

- 7.(1) No Member shall use or permit the use of, City land, facilities, equipment, supplies, services, City employees or other resources, including City-owned materials, websites, Council transportation delivery services, or Councillor global budgets, for activities other than the business of the City and in accordance with City policies.

- (2) No Member shall obtain financial gain from the use or sale of City-developed intellectual property, (including inventions and creative writings or drawings), computer program, technical innovation, or other item capable of being patented, in which property remains in the exclusive ownership of the City.

Rule 6: Discreditable Conduct Harassment

15.(1) Every Member shall:

- (a) treat other Members, City officers and employees, and members of the public, appropriately, and without abuse, intimidation, harassment or violence; and
- (b) make all reasonable efforts to ensure that their work environment is free from discrimination, harassment and violence.

Rule 7: Social Media

17. Every Member shall:

(a) adhere to any and all City policies and guidelines, regarding social media use; and

(b) always identify themselves without any attempt to cover, disguise or mislead as to their identity or status as an elected representative of the City when using social media.

Role of the Integrity Commissioner (Advisory)

15.2 (d) Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.

(e) Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.

(f) Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.

Code Complaints Process

16.1 A complaint that a member has contravened the Code may be initiated by any person, any Member of Council, or by Council as follows:

- (a) a complaint shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
- (b) a complaint must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);

Code Investigations

- 16.3 The Integrity Commissioner shall undertake an initial review of a complaint that has been filed and shall determine whether the matter relates to non-compliance with the Code or other corporate policy applying to Members. The Integrity Commissioner shall have no power or jurisdiction to investigate or otherwise deal with the complaint, if the complaint is not alleging a contravention of the Code or other corporate policy applying to Members or if the complaint relates to the following matters:
- (i) Criminal Matter
 - (ii) Freedom of Information
 - (iii) Municipal Elections Act

Code Investigations

If the Integrity Commissioner is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the complaint in a summary manner.

Service of Complaints

If the Integrity Commissioner has decided to commence an investigation of a complaint, the Integrity Commissioner shall provide a copy of the complaint and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within ten (10) days.

Early Notice of Decision

Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.

Decisions after Code Investigations

16.1 Upon conclusion of a complaint investigation, the Integrity Commissioner shall:

- (a) issue a report to Council on the findings of the investigation and, where there is a finding of contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and
- (b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the complainant at the same time as the report becomes public.

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006.

MCIA Application Process

An elector, as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest may apply in writing to the Commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of that Act by a member of council or a member of a local board.

Municipal Conflict of Interest Act

5 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

Decision on MCIA Investigations

- 16.11 Upon conclusion of an Application investigation, the Integrity Commissioner may, if he/she considers it appropriate, apply to a Judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravened Section 5, 5.1 or 5.2 of the Act.

Reporting on MCIA Investigations

16.12 THE INTEGRITY COMMISSIONER SHALL:

- (a) advise the applicant if he or she will not be making an application to a judge; and
- (b) after deciding whether or not to apply to a judge, provide a written report providing reasons for the decision.