

	<b>Council Code of Conduct</b>	
	<b>Policy Category:</b> Governance/Protocol	
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## 1. Definitions:

### 1.1 In the Council Code of Conduct:

**“City Records” means an original record which is either created or received by a department, division or officer of the City, related to a business function of the City. City Records do not include Constituent Records.**

**“Constituent Records” means a record which is generated or received by a Member acting in the capacity of an elected representative of a constituent, and relates to the Members mandate and function as an elected representative only. Constituent Records include a Member’s personal records, generated or received by them as a private citizen.**

**“Closed/In-Camera Meeting” means any meeting of Council that is closed to the public in accordance with s. 239 of the *Municipal Act, 2001*.**

**“Confidential Information” includes information in the possession of, or received in confidence by the City, that the City is prohibited from disclosing, or is required to refuse to disclose, or chooses not to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation.**

**“Elected Official” includes individuals elected municipally, provincially or federally with whom the Member interacts with.**

**“Family” includes a Member’s child, parent, spouse, brother and sister, including half brother and sister.** For the purposes of this definition:

- a) child means a child born within or outside a 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;
- b) 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
- c) spouse means a person to whom the Member is married or with whom the Member is living in a conjugal relationship outside marriage.

**“Gift” means any cash or monetary equivalent, fee, object of value, service, personal benefit, travel and accommodation or entertainment.**

**“Harassment” includes, but is not limited to, engaging in a course of vexatious or unwanted comment or conduct that is known or ought reasonably to be known to be unwanted.**

“Member” means a Member of Markham City Council.

**“Personal Information”, as defined in *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, means information about an identifiable individual, including but not limited to:**

- a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;**
- b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;**
- c) any identifying number, symbol or other particular assigned to the individual;**
- d) the address, telephone number, fingerprints or blood type of the individual;**
- e) the personal opinions or views of the individual except if they relate to another individual;**
- f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;**
- g) the views or opinions of another individual about the individual; and**
- h) the individual’s name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.**

“Senior Executive” means any of the Chief Administrative Officer and Commissioners.

“Staff” includes anyone employed by the City of Markham including full-time, part-time, temporary or seasonal Staff, contract Staff, students and volunteers.

## **2. Statutory Provisions Regulating Conduct**

2.1 In addition to the Council Code of Conduct, Members are required to comply with existing provincial or federal legislation, including but not limited to:

- a) Municipal Act, 2001;*
- b) Municipal Conflict of Interest Act;*
- c) Municipal Elections Act, 1996;*
- d) Municipal Freedom of Information and Protection of Privacy Act;*
- e) Ontario Human Rights Code;*
- f) Ontario Occupational Health and Safety Act; and*
- g) Criminal Code of Canada.*

### 3. Purpose

3.1 The Code of Conduct identifies the City's expectations for the conduct of Members and establishes guidelines for appropriate conduct to ensure that:

- a) the decision making process of City Council is transparent, accessible and equitable, in accordance with the *Municipal Act*;
- b) decisions are made through appropriate channels of government structure;
- c) public office is not used for personal gain;**
- d) the conduct of Members is of a high ethical standard; and
- e) there is fairness and respect for differences of opinion and a duty to work together for the common good.

The *Code of Conduct* also serves to uphold the principles, goals and values of the City and provide standards for appropriate interaction between Members, Staff, the public and Elected Officials.

### 4. Principles of the Code of Conduct

4.1 The following principles of conduct apply to all Members. Members will:

- a) Serve and be seen to serve their constituents in a conscientious and diligent manner;
- b) Be committed to performing their functions with integrity and transparency;
- c) Abide by the policies and by-laws of the City;
- d) Avoid the improper use of the influence of their office, and conflicts of interest;**
- e) Perform official duties and arrange their public affairs in a manner that promotes public confidence and respect, and will withstand close public scrutiny;
- f) Seek to serve the public interest by upholding both the letter and the spirit of the laws, **regulations,** and policies established by the **Government of Canada, Government of Ontario and Markham City Council;** and
- g) Fulfill their roles as set out in the *Municipal Act*, and respect the role of Staff in the administration of the business affairs of the City.

### 5. Roles and Obligations

5.1 All Members will:

- a) Respect the diversity of community views in developing an overall strategy for the future of the City;
- b) Set objectives and determine strategies to achieve the goals of the City as defined in the policies and by-laws approved by Council;
- c) Ensure sound financial management, planning and accountability; and
- d) Be aware of and understand statutory obligations imposed on Council as a whole, as well on each individual Member.

## 6. Confidentiality

Through the course of their official duties, Members may have access **to Confidential Information**. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, **financial**, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor client privilege.

6.1 Members will not disclose or release any Confidential Information, in either oral or written form, acquired by virtue of their office, except when authorized by Council. **Council may not authorize the disclosure of Confidential Information which the City is prohibited from disclosing under MFIPPA.**

6.2 Members will not disclose confidential information that may benefit themselves or others, including Confidential Information regarding the bidding or procurement of City property, services or assets.

6.3 Members will not disclose the content of any matter, or the substance of discussions, individually or collectively, at a Closed/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.

6.4 No Member will permit any persons other than those who are entitled thereto to have access to **Confidential Information**.

6.5 **The obligation to keep information confidential is a continuing obligation even if the Member ceases to be a Member of Council.**

## 7. Personal Information

**In their decision making process, Members will have access to Personal Information contained in City Records that IS subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). In addition, Members may have access to Personal Information in their Constituent Records and from other interested parties that IS NOT subject to MFIPPA.**

7.1 **While it is noted that Constituent Records are not covered by MFIPPA, Members will treat Personal Information contained in Constituent Records in accordance with the principles of MFIPPA.**

7.2 Members will not disclose Personal Information without the consent of the individual, or the City Clerk in the case of Personal Information contained in City Records.

7.3 No Member will permit any persons, other than those who are entitled thereto to, have access to Personal Information.

7.4 No Member will use Personal Information for personal or private gain, or for the gain of his or her Family or any other person or corporation.

7.5 No Member will access, or attempt to gain access to, Personal Information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by Council policy or MFIPPA.

## **8. Communications with the Public & Media Relations**

8.1 Members, when communicating with the public and media, will accurately communicate the decisions of Council, even where a Member disagreed with the decision of Council, so that there is respect for and integrity in the decision making process of Council.

## **9. Relations with Staff**

### **9.1 Members will:**

- a) Work through the Senior Executive and their designates and not attempt to direct the activities of Staff or departments;
- b) Be respectful of Staff. Members will direct any criticisms of Staff to the Senior Executive and refrain from criticizing Staff in public and the media; and
- c) Honour the requirement for Staff to remain neutral and not compel Staff to engage in partisan political activities or subject Staff to threats or intimidation for refusing to engage in such activities.

## **10. Gifts, Hospitality and Benefits**

### **10.1 Members are permitted to accept a Gift under the following conditions, subject to the reporting requirements outlined in 10.3:**

- a) It is authorized by law (for example, remuneration);
- b) Such gifts or benefits that would normally accompany the responsibilities of a political office and are received as an incident of protocol or social obligation;
- c) It is a political contribution reported in accordance with applicable law;
- d) Services provided without compensation by persons volunteering their time to a Member;
- e) A suitable memento from 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 or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;
- g) Tickets or admission to banquets, receptions, sporting events, cultural events, performances or similar events, for charitable, not-for-profit or community purposes, if:
  - i. Attendance is open and transparent and serves a legitimate charity fundraising or community purpose; and

- ii. The value and venue location are reasonable;
- h) Business meals that serve a legitimate public duty purpose;
- i) Communications to the offices of a Member, including subscriptions to newspapers and periodicals related to the duties of Office; and
- j) Sponsorships and donations for community events or initiatives organized or run by a Member, or a third party on behalf of a Member, where Council has authorized or endorsed the event or initiative.

**10.2 Members are not permitted to accept any Gifts that are not listed in this Policy connected directly or indirectly with the performance of his or her duties.**

10.3 Each Member must maintain a list of all Gifts **received in a calendar year, where the value of a single Gift, or the cumulative value of Gifts from a single source, exceeds \$350.** This list must be available upon request by the Integrity Commissioner for the purposes of determining if the Gift is appropriate. Gifts described in clause 10.1(g) are exempt from the reporting requirement.

10.4 The Integrity Commissioner may call upon a Member to justify receipt of any Gift.

10.5 No Gifts are to be accepted by a Member that would, to a reasonable member of the public, appear to be in gratitude or compensation for influence, to induce the Member to exercise his or her influence, or otherwise to go beyond necessary and appropriate public actions.

**11. Use of City Property, Services & Other Resources**

11.1 No Member will use for personal purposes, any City property, equipment, services or supplies, (for example, agency, board, or City-owned materials or website and City transportation delivery services, and any Member's expense budget), of any material consequence, other than for the purposes connected with the discharge of City duties, which may include activities within the Member's office of which City Council has been advised.

11.2 No Member will obtain or attempt to obtain financial gain from the use of City developed intellectual property, including but not limited to computer programs, technological innovations or other patentable items, **while they are a Member or thereafter.** All such property remains the exclusive property of the City of Markham.

11.3 No Member will use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties.

**12. Election Campaign work**

12.1 Members are required to comply with the provisions of the *Municipal Elections Act*. No Member will use the facilities, equipment, supplies, services or other resources of the City for any election-related activities.

12.2 No Member will undertake campaign-related activities on City property unless permitted by the Returning Officer.

12.3 No Member will use the services of persons for election-related purposes during hours in which those persons receive compensation from the City.

### 13. Improper Use of Influence

**13.1 No Member will use their influence for any purpose other than the exercise of their official duties.**

13.2 Examples of prohibited conduct are the use of a Member's status as a Member of Council to improperly influence the **actions or decisions of Staff or others** to the private advantage of the Member or his or her Family, Staff, friends or associates, business or otherwise. This would include an attempt 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.

13.3 For the purpose of this provision, "private advantage" does not include a matter:

- a) that is of general application;
- b) that affects a Member, his or her Family, Staff, friends, or associates, business or otherwise as one of a broad class of persons; or
- c) that concerns the determination of the remuneration or benefits for Members **as a whole**.

### 14. Business Relations

**14.1 No Member, either personally or through a company he or she owns or controls, will borrow money from any person that regularly does business with the City unless such person is regularly in the business of lending money. No Member, either personally or through a company he or she owns or controls, will borrow money from any entity that regularly does business with the City unless such entity is regularly in the business of lending money and their shares are publicly traded.**

14.2 No Member will act as a paid agent before Council or Committee or any agency, board, or committee of the City except in compliance with the terms of the *Municipal Conflict of Interest Act*.



14.3 No Member will refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

## 15. Transparency and Openness in Decision Making

15.1 Members will conduct Council business and their duties in an open and transparent manner other than for those matters which, by virtue of the *Municipal Act* and other applicable legislation, are required or are authorized to be dealt with in a Closed/In-Camera session, so that stakeholders can view the process and rationale which has been used to reach decisions.

## 16. Conduct at Meetings

16.1 Members will conduct themselves at Council and in City related business meetings with decorum and in accordance with the City's Procedural By-law. **Members will show respect for deputants and fellow Members and Staff by being courteous and not distracting from the business of the Council during presentations and when other Members have the floor.**

## 17. Conduct of Members

17.1 Members will conduct themselves with appropriate decorum at all times and ensure that their behaviour does not bring the reputation of the City into disrepute.

**17.2 Members will be respectful of other Members, Staff and the public and their views and will encourage others to do the same.**

## 18. Harassment & Discrimination

18.1 Harassment of another Member, Staff or any member of the public is prohibited under the *Ontario Human Rights Code*. Harassment, whether it occurs inside or outside the workplace, **or whether it is related to the work environment or other activities of a Member, is inappropriate behaviour for the purpose of this Code of Conduct.**

18.2 **Members will not engage in workplace discrimination** (as defined by the *Ontario Human Rights Code*), harassment (as defined by the *Ontario Human Rights Code* and the *Ontario Occupational Health and Safety Act*), or violence (as defined by the *Ontario Occupational Health and Safety Act*) when dealing with other Members, Staff, residents or other members of the public.

## 19. Compliance with Code of Conduct

19.1 Members are accountable to the public **each day and throughout the four-year Council term.** Between elections they may become disqualified and lose their seat, **for example, if they were**

to lose their eligibility under the *Municipal Act*, or for failing to declare a conflict of interest under the *Municipal Conflict of Interest Act*.

19.2 The *Municipal Act* authorizes Council to impose one or more of the penalties listed below, **if so desired**, on a Member following a report by the Integrity Commissioner that, in his or her opinion, the Member has contravened the Code of Conduct:

- a) A reprimand; or
- b) Suspension of the remuneration paid to the Member in respect to his or her services as a Member of Council or local board, as the case may be, for a period of up to 90 days.

## 20. Complaints

**If a Member, the public or staff believes a Member has contravened the Code of Conduct he or she may submit a written complaint in accordance with the established Complaint Protocol. (See Appendix A.)**