

	<b>Council Code of Conduct</b>	
	Policy Category: Governance/Protocol	
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<b>Approving Authority:</b>  <i>Council</i>		<b>Effective Date:</b>  <i>TBD</i>
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<b>Area(s) this policy applies to:</b>  <i>All Members of Council</i>		<b>Owner Department:</b>  <i>Legislative Services</i>

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## 1. Definitions:

1.1 In the Council Code of Conduct:

“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;

“Member” means a member of Markham City Council;

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

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

“Staff” includes Commissioners, Directors, Managers, Supervisors, Clerical and Technical unionized employees, non-unionized staff, hourly unionized staff, part-time unionized staff, temporary/seasonal staff, contract staff, students and volunteers.

## 2. Statutory Provisions Regulating Conduct

2.1 The Council Code of Conduct operates along with, and as a supplement to, the existing statutes governing the conduct of members, including but not limited to, the following provincial legislation:

- 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*

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

## 3. Purpose

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

- a) the decision making process of City Council is transparent, accessible and equitable.
- b) decisions are made through appropriate channels of government structure.
- c) public office is not used for personal gain.
- d) the conduct of Members of Council is of the highest ethical standard.
- 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 Council colleagues.

#### **4. Principles of the Code of Conduct/Application**

4.1 The key principles that underline the rules in this *Council Code of Conduct* are as follows:

- a) Applies to all Members of Council;
- b) Members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- c) Members shall be committed to performing their functions with integrity and transparency;
- d) Members shall conduct their private lives so as to not bring their office, Council or the City into disrepute;
- e) Members shall avoid the improper use of the influence of their office, and conflicts of interest, both perceived and real. Members shall not extend, in their discharge of their official duties, preferential treatment to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was advancing a private interest;
- f) Members shall perform official duties and arrange their public affairs in a manner that promotes public confidence and respect and will withstand close public scrutiny;
- g) 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 City Council; and
- h) Members shall fulfill their roles as set out in the *Municipal Act, 2001* and respect the role of staff in the administration of the business affairs of the City.

#### **5. Roles and Obligations**

5.1 All Members of Council shall:

- a) Fairly 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 as each individual Member.

## **6. Confidentiality**

6.1 In their decision making process, Members of Council will have access to information that may be confidential such as, but not limited to, information provided in “Closed Session” meetings.

6.2 Confidential information includes information in the possession of, or received in confidence by the City that the City is prohibited from disclosing, 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. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor client privilege.

6.3 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.

6.4 No Member shall use confidential information for personal or private gain, or for the gain of his/her family members or any person or corporation.

6.5 No Member shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sales of City property or assets.

6.6 No Member shall disclose the content of any matter, or the substance of deliberations, at a closed session 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.

6.7 No Member shall permit any persons other than those who are entitled thereto to have access to information that is confidential.

## **7. Personal Information**

7.1 In their decision making process, Members of Council will have access to personal information contained in City records subject to *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

7.2 In addition, Members may collect Personal Information from constituents and other interested parties that is not subject to MFIPPA.

Personal Information 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.

7.3 Members shall only use and disclose personal information in accordance with MFIPPA even where the legislation does not otherwise apply.

7.4 Members shall not disclose the personal information of any individual without the consent of the individual, or the City Clerk in case of personal information contained in City records.

7.5 No Member shall permit any persons other than those who are entitled thereto to have access to personal information.

7.6 No Member shall use personal information for personal or private gain, or for the gain of relatives or any person or corporation.

7.7 No Member shall 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.

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

## **8. Communications & Media Relations**

8.1 Members of Council will accurately communicate the decisions of Markham's Council, even if they disagree with a majority 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 of Council shall acknowledge and respect the fact that staff work for the City as a corporate body and are responsible for making recommendations that reflect their professional expertise and corporate objectives, without undue influence from any individual member.

9.2

- a) No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination or intimidation for refusing to engage in such activities;
- b) No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity;
- c) Members shall be respectful of the role of staff to advise Council based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council; and
- d) No Member shall maliciously or falsely impugn or injure the professional or ethical reputation or practice of staff and all Members shall show respect for the professional capacities of the staff of the City.

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

10.1 No Member shall accept a fee, advance, gift, loan or personal benefit that is connected directly or indirectly with the performance of his or her duties of Office, except as specifically contemplated below:

- a) Compensation authorized by law;
- b) Such gifts or benefits that normally accompany the responsibilities of a political office and are received as an incident of protocol or social obligation;
- c) A political contribution otherwise reported in accordance with the applicable law;
- d) Services provided without compensation by persons volunteering their time to a Member;
- 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 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) Food and beverages consumed at banquets, receptions, sporting events, cultural events, performances or similar events, for charitable, not for profit and community purpose, if:

- i. Attendance is open and transparent and serves a legitimate charity fundraising and 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 Each member must maintain a list of all gifts to be available upon request by the Integrity Commissioner.

10.3 Should the Integrity Commissioner request to examine the list of gifts received by a Member to ascertain whether the gift is inappropriate he or she shall call upon the Member to justify receipt of the gift.

10.4 Gift means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment. 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/her influence, or otherwise to go beyond necessary and appropriate public actions.

## **11. Conflict of Interest – Pecuniary Interest**

11.1 Members shall comply with the provisions of the *Municipal Conflict of Interest Act* and shall avoid conflicts of interest, both perceived and real.

## **12. Use of City Property, Services & Other Resources**

12.1 No member shall use for personal purposes any City property, equipment, services, supplies or services of consequence (for example, agency, board, or City-owned materials or website and City transportation delivery services, and any Member's expense budget) 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.

12.2 No Member shall obtain or attempt to obtain financial gain from the use of City developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the City of Markham.

12.3 No Member shall 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.

### **13. Election Campaign work**

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

13.2 No Member shall undertake campaign-related activities on City property during regular working hours unless permitted by City policy.

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

### **14. Improper Use of Influence**

14.1 No Member shall use the influence of his/her office for any purpose other than the exercise of their official duties.

14.2 Examples of prohibited conduct are the use of a Member's status as a Member of Council to improperly influence the decision of another person to the private advantage of the Member, or his/her parents, children or spouse, staff members, 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.

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

- a) that is of general application;
- b) that affects a member 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.

### **15. Business Relations**

15.1 No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.



15.2 No Member shall 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*.

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

## **16. Transparency and Openness in Decision Making**

16.1 Members shall endeavour to conduct Council business and all their duties in an open and transparent manner other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner in closed session, so that stakeholders can view the process and rationale which has been used to reach decisions, and the reasons for taking certain actions.

## **17. Conduct at Meetings**

17.1 Members shall conduct themselves at Council and in City related business meetings with decorum and in accordance with the City's Procedural By-law. Respect for deputants and for fellow members and staff requires that all members show courtesy and not distract from the business of the Council during presentations and when other members have the floor.

## **18. Conduct of Members**

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

## **19. Harassment**

19.1 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, which is related to the work environment or activities of elected office, is considered to be harassment for the purpose of this policy and is inappropriate behaviour for the purpose of this Code of Conduct.

19.2 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.

19.3 It is a violation of the Code of Conduct for Members of Council to 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 of Council, municipal staff, volunteers, residents or other members of the public.

## **20. Compliance with Code of Conduct**

20.1 Members 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 interest under the *Municipal Conflict of Interest Act*.

20.2 The *Municipal Act* authorizes Council to impose either of two penalties on a Member of Council following a report by the Integrity Commissioner where, in his/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 a local board, as the case may be, for a period of up to 90 days.