



## NOTICE OF MOTION

### Code of Conduct

**DATE**                      **March 26, 2012**

**MOVED**                        
**Councillor David Pickles**

**SECONDED BY**                
**Kevin Ashe**

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WHEREAS: the residents of the City of Pickering expect and deserve the best possible performance from their elected and appointed municipal representatives.

AND WHEREAS: many municipalities have adopted Codes of Conduct to better articulate transparency and accountability by Members of Council, Council-appointed members of committees, agencies, boards and commissions.

AND WHEREAS: many municipalities have obtained the services of an Integrity Commissioner to assist with and oversee the implementation of their Codes of Conduct;

NOW THEREFORE BE IT RESOLVED:

1. That Members of Council and the City of Pickering approve and adopt the Code of Conduct as set out in Attachment 'A', and that the Code of Conduct take effect from the day on which the City selects an Integrity Commissioner;
2. That City of Pickering staff prepare and implement any appropriate policies and procedures to adopt and implement the Code of Conduct;
3. That City of Pickering staff report back to Council early in 2012 to recommend the most appropriate and cost-effective approach for obtaining the services of an Integrity Commissioner;
4. That staff include in the draft 2012 City of Pickering Budget sufficient funds for implementation of the Code of Conduct and for obtaining the services of an Integrity Commissioner;
5. That staff take the appropriate steps to communicate to Pickering residents, City of Pickering employees, Members of Council, and Council appointed members of committees, agencies, boards and commissions the adoption and implementation of the Code of Conduct; and
6. That staff work towards having the appropriate policies and procedures in place for implementation of the Code of Conduct and selection of an Integrity Commissioner by no later than September 1, 2012.



## **COUNCIL CODE OF CONDUCT (proposed January 25, 2012)**

### **PART I PREAMBLE**

1. This Code of Conduct is intended to complement the oath of office sworn by each of the Members of Council of the City of Pickering.
2. Attaining an elected position within one's community is a privilege which carries significant responsibilities and obligations. Members of Council are held to a high standard as leaders of the community and are expected to become well informed on all aspects of municipal governance, administration, planning and operations. They are also expected to carry out their duties in a fair, impartial, transparent and professional manner.
3. All members of the Council of the City of Pickering are committed to protecting and promoting the well-being and best interests of the citizens of the City with the highest standards of integrity and ethical conduct. This Code is an affirmation of this commitment. It recognizes and is based on the following key statements of principle:
  - Members are committed to performing their duties of office and arranging their private affairs, in a manner that promotes public confidence in the integrity of each Member and respect for Council as a whole
  - Members are committed to acting and being seen to act with integrity and impartiality that will bear the closest scrutiny
  - Members are committed to serving their constituents in a conscientious and diligent manner
  - Members are committed to working with City officials and staff in a conscientious and respectful manner
  - Members are committed to ensuring that their actions are open and transparent to the greatest extent possible
  - Members are committed to avoiding waste, abuse and extravagance in the provision and use of any of the City's resources

## PART II INTERPRETATION

### Definitions

1. In this Code and in the Preamble,
  - (a) “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;
  - (b) “City” means the Corporation of the City of Pickering;
  - (c) “City property” includes City-owned and leased facilities, vehicles, equipment, supplies, services, computer hardware and software, and intellectual property;
  - (d) “confidential information” includes information relating to the subject matters set out in subsection 23 (1) of this Code and information in the possession of the City that the City is prohibited from disclosing under the *Municipal Freedom of Information and Protection of Privacy Act* and other legislation;
  - (e) “gift” includes any cash or monetary equivalent, fee, object of value, service, forbearance, preferential treatment or personal benefit, received from a third party;
  - (f) “Integrity Commissioner” means the Integrity Commissioner appointed by the City;
  - (g) “Member” when used in this Code, means every Member of Council of the City as well as every other person described in Section 4; and;
  - (h) “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;
  - (i) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
  - (j) “third party” includes any individual, corporation, and other legally recognized person or entity, but does not include:
    - (i) the City, and those bodies referenced in Section 4 of the Code;
    - (ii) any other Ontario municipality;

(iii) the Government of Ontario; and

(iv) the Government of Canada;

or any of their respective staff, employees, committees, advisory committees, boards, authorities, departments and related entities, in their capacities as such.

### **Statutory Provisions and References to Legislation**

2. In this Code, reference to any Act or by-law is reference to that Act or by-law as amended or re-enacted from time to time.
3. This Code of Conduct operates along with, and as a supplement to, the existing statutes governing the conduct of Members. The following Acts of Provincial legislation govern the conduct of Members of Council:
  - *The Municipal Act, 2001*;
  - *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.

### **Application**

4. Subject to section 5, this Code applies to all Members of City Council and, with any necessary modifications, to:
  - (a) all persons appointed by the City to exercise any statutory power of decision (eg. Fence Viewers and members of the Committee of Adjustment, the Animal Services Committee and the Property Standards Committee);
  - (b) all members of the City's advisory committees (e.g. Waterfront Coordinating Committee, Heritage Pickering Advisory Committee, Accessibility Advisory Committee, Pickering Museum Advisory Committee, and Race Relations and Equity Advisory Committee); and
  - (c) all persons appointed by the City to any agency, board or commission including Veridian Corporation and the Toronto and Region Conservation Authority.
5. This Code does not apply to members of the Pickering Public Library Board.

## **PART III MEMBER CONDUCT**

### **Gifts and Participation at Events**

6. Subject to sections 7 to 12, no Member shall solicit or accept any gift that is directly or indirectly connected with the performance of his or her duties of office. For the purposes of this provision, any gift provided to a Member's child, parent or spouse, with the Member's knowledge, shall be deemed to be a gift accepted by that Member.
  
7. The City recognizes that moderate hospitality and participation in charitable, non-profit fundraising and business events is an accepted courtesy of community participation and business relationships. Accordingly, the following types of gifts are recognized as exceptions to the prohibition in section 6:
  - (a) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibilities of office;
  - (b) token gifts such as souvenirs, mementoes and commemorative gifts that are given in recognition of service on a committee, for speaking at an event, or representing the City at an event;
  - (c) food and beverages consumed at lunches, dinners, charity fundraisers, banquets, receptions, ceremonies or similar events, if the Member's attendance serves a legitimate municipal purpose;
  - (d) communications to the offices of a Member, including subscriptions to newspapers and periodicals;
  - (e) compensation authorized by law;
  - (f) political contributions that are offered, accepted and reported in accordance with applicable law;
  - (g) services provided without compensation by persons volunteering their time;
  - (h) gifts of admission to dinner, charity fundraisers, banquets, receptions, ceremonies, cultural events, sporting events, business, galas, political events, and similar events, if the Member's attendance serves a legitimate municipal purpose.
  - (i) reasonable payment for participation in or organizing any reception, dinner, gala, golf tournament or similar event to support charitable causes or a political fundraising event; and

- (j) food, lodging, transportation or entertainment from a not-for-profit non-government organization (e.g. Greater Toronto Marketing Alliance and Canadian Association of Nuclear Host Communities).
8. Within 30 days of receipt of any gift described in clauses 7 (a), (b), or (c), Members shall file a disclosure statement with the City Clerk for any gift that exceeds \$150. If the value of any gift described in clauses 7(h), (i) or (j) exceeds \$500, or if the total value of such gifts received from any one source during one calendar year exceeds \$1,000, the Member shall file a disclosure statement with the Integrity Commissioner within 30 days of the receipt of the gift or the receipt of the last of such gifts totalling \$1,000, as the case may be. Every disclosure statement shall indicate,
- (a) the nature of the gift;
  - (b) its source and date of receipt;
  - (c) the circumstances under which it was received; and
  - (d) its estimated value.
9. Every disclosure statement shall be a matter of public record.
10. The City Clerk shall report to Council annually on all gifts received by Members that are disclosed in accordance with section 8.
11. The Integrity Commissioner shall examine every disclosure statement filed with him or her to ascertain whether the receipt of the gift might, in her or his opinion, create a conflict between a private interest and the public duties of the Member. If the Integrity Commissioner makes that preliminary determination, the Member shall be asked to justify receipt of the gift.
12. If the Integrity Commissioner determines that receipt of the gift was inappropriate, he or she may direct the Member to return the gift, reimburse the donor for the value of any gift already consumed, forfeit the gift, or remit the value of any gift already consumed, to the City.

### **Interaction with the Public, Other Members and City Staff**

13. Members have a duty to treat members of the public, one another, and staff, with respect and dignity and without abuse, bullying or intimidation.

14. Members have a duty to ensure that the City's work environment is safe, and free from discrimination and harassment.
15. No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in any such activity.
16. Members must recognize that staff serve Council as a whole and the collective interests of all Members as evidenced through the decisions of Council, and that the role of staff is to provide advice that is based on political neutrality, objectivity and professional judgment which may not necessarily reflect the opinion or position of any single member of Council.
17. Every Member shall conduct himself or herself properly and with decorum at Council meetings in accordance with the provisions of the City's Procedural By-law or any revision thereof.

### **Influence**

18. No member shall use his or her office to seek to influence any decision made or to be made by Council, any Member or any other person to the member's private advantage or to the advantage of another person.
19. No Member shall use his or her office to seek to influence or interfere with the administration or enforcement of the City's regulatory by-laws or other laws enforced by the City. Notwithstanding this, it is recognized that Members of Council may, in good faith, raise the concerns of residents with City staff for the purpose of determining if those concerns can be resolved, having due regard for the public interest in fair and impartial by-law enforcement.
20. All applicants for City positions shall have an equal opportunity to obtain employment. No Member shall use his or her office to seek to inappropriately influence the hiring of specific individuals for any position within the City, including part-time employees and summer students. Nothing in this section prohibits a Member from: (i) providing a reference for an applicant for any position within the City, or (ii) offering his or her opinions and voting on any decision to hire a Chief Administrative Officer.
21. No Member shall use the City's corporate logo or the City letterhead in any communication intended to solicit funds to support any cause, unless such use has been endorsed through a resolution of Council.

### **Conflicts of Interest**

22. It is the responsibility of each Member to be familiar with and adhere to the provisions of the *Municipal Conflict of Interest Act*. In addition, recognizing the importance of avoiding even the appearance of a conflict of interest,

Members are encouraged to interpret the phrase “conflict of interest” in its broadest possible terms, and shall avoid taking any action or making any decision where there are grounds for a reasonable person to think that a conflict exists between the Member’s personal interests and the public interest.

### **Confidential Information**

23. (1) In accordance with section 239 of the *Municipal Act, 2001* and City’s Procedural By-law, meetings may be held *in camera* if the subject matter being considered is,
- (a) the security of the property of the City;
  - (b) personal matters about an identifiable individual, including any employee of the City;
  - (c) a proposed or pending acquisition or disposition of land for City purposes;
  - (d) labour relations or employee negotiations;
  - (e) litigation or potential litigation, including matters before administrative tribunals, affecting the City;
  - (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose; or
  - (g) a matter in respect of which Council may hold a closed meeting under another Act.
- (2) In accordance with the *Municipal Act, 2001*, a meeting may also be held *in camera* if it is held for the purpose of educating or training Members and, at the meeting, no Member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of Council.
24. Members shall hold in strict confidence all information concerning matters dealt with *in camera*. No Member shall release, make public, or in any way divulge any such confidential information or any aspect of the *in camera* deliberations, unless expressly authorized or required by law.
25. No Member shall release, make public, or in any way divulge any such confidential information acquired by virtue of his or her office, unless expressly authorized or required by law.

26. No Member shall use information gained in the execution of his or her office that is not available to the general public, for any purpose other than his or her official duties.
27. No Member shall access or attempt to gain access to confidential information in the custody of the City except to the extent necessary for the performance of his or her duties as a Member.

### **Communications and Media Relations**

28. Members shall fairly and accurately communicate the decisions of Council even if they disagree with a majority decision of Council, in order to foster respect for the decision-making process of Council.

### **Charitable Activities**

29. As community leaders, Members of Council are called upon to organize, sponsor, assist and support various charities, service clubs, and other non-profit and community-based associations. For example, Members support their communities in a variety of ways including, but not limited to:
  - accepting honorary roles in organizations
  - lending their names to organizations and events to assist in fundraising; and
  - encouraging community donations to registered charitable, not-for-profit, or other community-based groups.

Members supporting these community endeavours shall respect the need for transparency with respect to their involvement in such enterprises, and shall perform their community service in a manner that promotes public confidence.

### **Use of City Property**

30. A Member who has care or custody of City property shall ensure that such property is properly used, maintained and secured. Members shall be held personally responsible for loss or damage if, in the opinion of the Chief Administrative Officer, City property under their care or custody has been used, maintained or secured in a negligent or abusive manner.
31. All City property required by Members to perform their duties of office shall be procured by the appropriate City staff in the manner set out in the City's Purchasing Policy and shall be considered purchased for the benefit of the City, not the benefit of the Member.

32. A Member shall not use, or permit the use of, City property or any other City resource for activities not associated with the discharge of his or her duties of office.

### **Applicable Laws and Policies**

33. Members are expected 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.
34. The City has established a comprehensive set of policies and procedures designed to ensure that the work environment is safe and free from discrimination and harassment, and that the City's operations are effective, efficient, open and accessible. All Members are required to observe the terms of all such policies and procedures in the same manner and to the same extent as employees of the City. Specifically, Members are expected to comply with the following policies:
- *Hiring Policy* (HUR 040)
  - *Workplace Harassment Policy* (HUR 070)
  - *Occupational Health & Safety Policy* (HUR 130)
  - *Council Compensation Policy* (ADM 190)
  - *Personal Computer Use Policy* (ADM 030)
  - *Freedom of Information and Protection of Privacy Policy* (ADM 050)
  - *Purchasing Policy* (PUR 010)
  - *Cellular Phone and Mobile Communications Devices Policies* (ADM 080)
35. To the extent that there is any inconsistency between this Code and any of the City's policies, this Code prevails.

### **Election Campaigns**

36. No Member shall use City property for any election campaign or campaign-related activities. For purposes of this section, City property includes the City's corporate logo.
37. No Member shall undertake campaign-related activities on City-owned lands.
38. An exemption to sections 36 or 37 may be granted by the City Clerk where such is, in the view of the City Clerk, in the public interest (e.g. political debates).
39. No Member shall use the services of City employees in work for his or her re-election during hours in which those employees are in the paid employment of the City.

### **Use of Alcohol**

40. Members shall not be permitted to charge as an expense to the City the cost of purchasing any alcoholic beverage. An exception shall be made for reasonable alcohol costs associated with a legitimate business meeting, lunch, dinner or event involving business representatives or dignitaries, consistent with conducting City business.

### **Professional Development**

41. Members shall promote and participate in opportunities for professional development in order to carry out efficiently and effectively the responsibilities of their office and to remain current on issues affecting the City.

### **Conduct of Former Members**

42. The City shall not hire or award any contract to any former Member for a period of 12 months from the date the former Member ceased to hold office, except where the former Member is the successful bidder through a quote or tender consistent with appropriate City policies.
43. A former Member may not lobby the City, or any Member, for a period of 12 months from the date the former Member ceased to hold office. For purposes of this section, "lobby" includes being paid to try to influence a Member on an issue.

### **Obstruction**

44. No Member shall obstruct the Integrity Commissioner in the carrying out of her or his responsibilities.

### **Reprisals**

45. No Member shall seek any reprisal or threaten any reprisal, against a complainant or any other person for providing relevant information to the Integrity Commissioner in the course of inquiry pursuant to a complaint.

## **Part IV ENFORCEMENT**

### **Informal Complaints**

46. Every person (including any Member, City employee, or member of the public, or any organization) who has observed conduct by a Member that the person believes contravenes this Code, is encouraged to deal initially with the matter informally by advising the Member that the conduct

contravenes the Code and by encouraging the Member to stop the prohibited conduct.

### **Lodging of Formal Complaints**

47. Any resident of Pickering who believes that a Member has contravened the Code may make a request the (“complaint”) that the matter be formally reviewed.
48. Every complaint shall,
  - (a) be in writing;
  - (b) set out the grounds for the belief and the contravention alleged;
  - (c) be signed by an identifiable individual (which includes the authorized signing officer of an organization);
  - (d) include a supporting affidavit that sets out the evidence in support of the complaint;
  - (e) include the original or copy of any supporting documentation or other supporting material available to the complainant; and
  - (f) include the name and contact information of the complainant and any witness.
49. Staff of the Clerk’s Division who are commissioners for taking oaths are authorized to commission the supporting affidavit.

### **Initial Classification**

50. Subject to sections 48 and 49, each complaint shall be filed with the City Clerk, who shall forward it to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with this Code and within the jurisdiction of the Integrity Commissioner to consider.
51. Each complaint shall be reviewed initially by the City Clerk to determine whether, on its face, the complaint is frivolous, vexatious or not made in good faith, and whether there appear to be sufficient grounds for an investigation. In the absence of apparent sufficient grounds, the Integrity Commissioner shall not conduct an investigation and, where that absence becomes apparent in the course of an investigation, shall terminate the investigation.
52. If a complaint or a part of a complaint is not, on its face, a complaint with respect to non-compliance with the Code or not within the jurisdiction of

the Integrity Commissioner to process, the Integrity Commissioner may refer the matter to the appropriate person or body.

### **Investigations**

53. If the Integrity Commissioner is of the opinion that any complaint or other matter provided or referred 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. Where such becomes apparent in the course of an investigation, she or he shall terminate the investigation. Save in exceptional circumstances, the Integrity Commissioner shall not report to Council on any such complaint except as part of an annual or other general report.
54. If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under sections 51, 52 or 53, the Commissioner shall investigate and may attempt to settle the complaint.
55. The Integrity Commissioner shall serve of copy of 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 be filed within ten days.
56. The Integrity Commissioner shall serve a copy of the Member's response upon the complainant, with a request for a written reply within ten days.
57. For the purposes of any investigation, the Integrity Commissioner shall have access to all City books, accounts, financial records, electronic data, reports, files and all other papers, things or property as he or she believes to be relevant to any complaint.
58. The Integrity Commissioner may make interim reports to Council as required to address any instances of interference, obstruction or retaliation encountered during an investigation.

### **Presentation of Findings**

59. The Integrity Commissioner shall report to the complainant and the Member no later than 90 days after the making of the complaint.
60. Where a complaint is upheld in whole or in part, the Integrity Commissioner shall also report to Council setting out the findings, the terms of any settlement, and any recommended corrective action or sanction.

61. If the Integrity Commissioner determines that there has been no contravention of the Code 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 in judgement made in good faith, the Integrity Commissioner shall so state in the report to Council and shall recommend that no sanction be imposed.
62. The City Clerk shall give a copy of the Integrity Commissioner's report to Council to the complainant and to the Member whose conduct it concerns.
63. Where a complaint is dismissed, save in exceptional circumstances, the Integrity Commissioner shall not report to Council except as part of an annual or other general report.

### **Confidentiality**

64. The Integrity Commissioner shall preserve the confidentiality of all matters that come to his or her knowledge in the course of his or her duties and shall disclose information only in accordance with this Code or otherwise as required by law.
65. A complaint about any Member is to be treated as the personal information of the Member against whom the complaint is directed, and of the complainant. Under the *Municipal Freedom of Information and Protection of Privacy Act*, both the Member and the complainant must therefore consent to the public disclosure of the complaint.
66. Subject to section 64, the Integrity Commissioner may disclose in any report to Council such matters as in his or her opinion are necessary for the purposes of the report.
67. Despite sections 64 and 65, all reports to Council from the Integrity Commissioner shall be made available to the public.

### **Council Review**

68. Council shall consider all reports of the Integrity Commissioner and may adopt or reject, in whole or in part, any recommendation of the Integrity Commissioner.

### **Sanctions**

69. If the Integrity Commissioner reports to Council that, in her or his opinion, a Member has contravened this Code, Council may,
  - (a) reprimand the Member;

- (b) require the Member to repay or reimburse monies received;
- (c) require the Member to reimburse the City for losses or damages;
- (d) require the Member to return property; and/or
- (e) require the Member apologize to Council, the complainant, or both.

### **Costs**

- 70. Council may, in its discretion, reimburse either a complainant or a Member for actual and reasonable legal expenses related to a complaint, on a case-by-case basis.
- 71. Costs may be reimbursed to the complainant only if the Integrity Commissioner concludes that the complaint is not frivolous, vexatious or made in bad faith.
- 72. Costs may be reimbursed to the Member only if the Integrity Commissioner concludes that there has been no contravention of the Code.
- 73. Every Member shall comply with the requirements of this Code of Conduct, and shall act in accordance with its spirit and intent, in all matters pertaining to the performance of his or her duties as a Member.

### **Repeal**

- 74. The Council Code of Practice adopted by Council on October 14, 1997 is hereby repealed.

### **Effective Date**

- 75. This Code shall take effect on the date that it is adopted by Council.