

CITY OF KINGSTON
MEMBER CODE OF CONDUCT
[March 29, 2017]

1.0 Application

1.1 This Code of Conduct applies to Members of Council, including the Mayor, and, unless specifically provided, with necessary modifications to all Committees, which are defined as local boards in the *Municipal Act, 2001*.

1.2 All Members of Council and Committees are expected to follow this Code of Conduct, the Council Procedural By-Law and other sources of applicable law. The conduct of Members is also governed by these laws:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*

2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members of Council, in order to provide good governance and a high level of public confidence in the administration for the City.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve the public in a conscientious and diligent manner;
- Members shall act with integrity and avoid the improper use of the influence of their office;
- Members shall always act and are expected to perform their functions with integrity, accountability and transparency, and shall avoid the

improper use of influence of their office and conflicts of interest, both apparent and real;

- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and will bear public scrutiny;
- Members will uphold the letter and spirit of the laws of Canada, Ontario and the laws and policies adopted by Council.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (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 Kingston;
- (c) “Committee” means any advisory or other committee, subcommittee or similar entity, as listed in Appendix “A”, and as established from time to time by Council. Committees are subject to the procedural rules set out in Appendix “B” and Heritage Kingston is governed by the provisions of Bylaw 13-141 where there is a conflict with the provisions of Appendix “B” .;
- (d) “Council” shall mean the Council for the City;
- (e) “Member” means a member of the Council for the City or a member of a Committee of the City;
- (f) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature but that arises from a relationship with a person or entity that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises;
- (g) “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;
- (h) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

4.0 Responsibilities of Council

- 4.1 Council is responsible for and dedicated to providing good and effective government for the public in the City in an open, accountable and transparent manner.
- 4.2 A fiduciary relationship exists between the Council and residents of the City.
- 4.3 Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for Committees. The authority to act on behalf of Council, including through a Committee, can only be delegated by Council or through law.

5.0 General Obligations

- 5.1 In carrying out their duties, Members are expected to:
 - (a) make every effort to act with good faith and care;
 - (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or Committee and in accordance with the City's Procedural By-law or other applicable procedural rules and policies;
 - (c) seek to advance the public interest with honesty;
 - (d) refrain from making statements known to be false or with the intent to mislead Council or the public; and
 - (e) refrain from making disparaging comments about another Member or unfounded and speculative accusations about the motives of another Member.

6.0 The Role of Staff

- 6.1 Council as a whole approves budget, policy and governance of the City through its by-law and resolutions. Individual Members do not direct or oversee the functions of the administration or staff of the City or a Committee.
- 6.2 The City's administration and staff serve Council and work for the City under the direction of the chief administrative officer. Inquiries of staff from Members of Council should be directed to the chief administrative officer or the appropriate senior staff as directed by the chief administrative officer.

6.3 Members shall respect the role of staff in the administration of the business affairs of the City and in doing so comply with the City's Respect in the Workplace Policy. Members shall respect that:

- (a) staff provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
- (b) staff work within the administration of justice and Members must not make requests or statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, Members shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity;
- (c) staff carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

7.0 City Property

7.1 Council is the custodian of the assets of the City. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

7.2 By virtue of their office or appointment, Members must not use or permit the use of City land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the City. No Member shall seek financial gain for themselves, family or friends from the use or sale of City-owned intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the City.

8.0 Gifts and Benefits

8.1 Gifts to Members risk the appearance of improper influence. Gifts may improperly induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the municipality. No Member shall accept a fee, advance, gift, gift certificate, cash or personal benefit connected directly or indirectly with the performance of his or her duties. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of

the Member's duties is deemed to be a gift to that Member. Any doubt about the propriety of the gift should be resolved by the Member not accepting or keeping it.

- 8.2 For greater clarity, Members shall not accept any gift or benefits in their public capacity other than in the following circumstances:
- (a) compensation authorized by law;
 - (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - (c) a political contribution otherwise reported by law, in the case of Members running for office;
 - (d) services provided without compensation by persons volunteering their time;
 - (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;
 - (g) food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate business purpose,
 - (ii) the person extending the invitation or a representative of the organization is in attendance, and
 - (iii) the value is nominal and the invitations are rare;
 - (h) gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and
 - (i) any gift or personal benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

9.0 Confidentiality

- 9.1 Members receive confidential information from a number of sources as part of their work. This includes information received in confidence by the City that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council or Committees.
- 9.2 No Member shall disclose the content of any such matter, or the substance of deliberations, of a closed meeting and the Member has a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members must not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.
- 9.3 Members must not disclose, use or release information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the City that is relevant to matters before the Council, a Committee or a local board. Otherwise, Members enjoy the same access rights to information as any other member of the community and must follow the same processes as any private citizen to obtain such information.
- 9.4 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or as required by law.

10.0 Discrimination and Harassment

- 10.1 All Members have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment.

11.0 Improper Use of Influence

- 11.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties.
- 11.2 Members should not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person.
- 11.3 Members who are asked to support charitable activity within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members

shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

12.0 Conflicts of Interest

12.1 Members shall take appropriate steps to avoid conflicts of interest, both apparent and real. Proactive steps to mitigate conflict of interest is important to maintaining public confidence in elected officials. Members are encouraged to seek guidance from the Integrity Commissioner on becoming aware that they may have a conflict between their responsibilities to the public as a Member of Council and any other interest, pecuniary or non-pecuniary.

13.0 Council Policies and Procedures

13.1 Members are required to observe the terms of policies, procedures and rules established by Council or the Committee

14.0 Election Activity

14.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996*, as may be amended from time to time, and any City policies. The use of City resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

15.0 Respect for the Code of Conduct

15.1 Members should respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the City. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation.

15.2 Members are expected to cooperate with requests for information during investigations under the Code of Conduct. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code of Conduct or any process for complaints adopted by the City.

16.0 Penalties for Non-Compliance with the Code of Conduct

16.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct, Council may impose either of the following penalties on the Member as permitted by the *Municipal Act, 2001*:

- (a) a reprimand;
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council for a period up to 90 days.

Council may, on the basis of a recommendation from the Integrity Commissioner also take any or all of the following actions in furtherance of any penalty imposed and require that the Member:

- (i) provide a written or verbal apology,
- (ii) return property or make reimbursement of its value or of money spent,
- (iii) be removed from the membership of a Committee,
- (iv) be removed as chair of a Committee.

APPENDIX “A”

Standing Committees

- Administrative Policies Committee
- Environment, Infrastructure and Transportation Policies Committee
- Arts Recreation & Community Policies Committee
- Planning Committee

Advisory Committees

- The Kingston Environmental Advisory Forum (KEAF)
- Milton Cemetery Board
- Heritage Kingston
- Pine Grove Cemetery Board
- Municipal Accessibility Advisory Committee
- Nomination Advisory Committee
- Rural Advisory Committee
- Housing and Homelessness Advisory Committee

Legislated Committees

- Appeals Committee
- Committee of Adjustment
- Court of Revision – Municipal Act Requirements
- Court of Revision – Drainage Act Requirements
- Kingston Election Compliance Audit Committee

Advisory Committee Reporting To A Committee

- Central Pittsburgh Drain Committee
- Arts Advisory Committee

APPENDIX “B”

Procedural Code for Committees

6.1 Members of the public appointed to Committees are appointed at the pleasure of Council and may be removed at the pleasure of Council. They do not hold office as elected officials nor do they represent either Council or the Committee unless mandated to do so. Members of the public appointed to Committees must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.

6.2 Committees operate only within meetings for which proper notice has been given or as a matter duly added to an agenda.

6.3 Committees work often depends on the specific expertise of members of the public appointed to Committees, including their employment or business interests. Interests relating to expertise, knowledge or acquaintance of a topic or an individual does not necessarily constitute a pecuniary interest. Such an interest should still be declared, however, for the purposes of openness.

6.4 Committees are either advisory or quasi-judicial in nature, or have a management function.

(i) An advisory Committee provides Council with information or recommendations on matters related to their mandate for a Council decision.

(ii) Quasi-judicial committees, such as the Appeals Committee and the Committee of Adjustment, make decisions that are not subject to Council approval but may be the subject of an appeal to another body, such as the Ontario Municipal Board.

(iii) A management committee has responsibility for the management of an entity such as a cemetery.

6.5 If a pecuniary interest or an appearance of such arises in relation to any matter, members of the public appointed to a Committee with an advisory role must declare the pecuniary interest in a matter being discussed. The member may participate in the discussion but may not vote on the matter.

6.6 If a pecuniary interest or an appearance of such arises in relation to any matter, members of the public appointed to a Committee with a quasi-judicial role or with a management function must declare the pecuniary interest in a matter being discussed, must physically leave the room during the discussion of the matter, and must not communicate with Committee members about the matter before, during, or after the meeting at which the matter is discussed.

6.7 Committee work is part of the public record. Committees must ensure that their recommendations are sufficiently detailed and recorded clearly so that they can be relied upon by Council or the standing committee acting upon them.

6.8 The minutes of a committee meeting must record when any member has declared an interest (section 6.3) or a pecuniary interest (sections 6.5 and 6.6) as well as the circumstances in which the member left the room, the times at which the person left and returned to the meeting.

6.9 In addition to the recording of minutes as required by section 6.8, where:

- (i) a member of an advisory committee has declared a pecuniary interest (section 6.5); or
- (ii) a member of a management committee has declared a pecuniary interest (section 6.6)

The declaration as well as the nature of the pecuniary interest must be recorded as part of the recommendation to Council so that Council may be aware of the declaration when making its decision.