



# APPLEGROVE COMMUNITY COMPLEX

60 Woodfield Road, Toronto, Ontario M4L 2W6

Tel: 416-461-8143 Fax: 416-461-5513

www.ApplegroveCC.ca

**“TOGETHER, BUILDING OUR COMMUNITY”**



## **Board of Directors Meeting AGENDA – Wednesday, September 17, 2008**

**If you cannot attend, please call the office with your regrets**

A neighbourhood partnership fostering community  
through social and informative programs for individuals and families.

**6:00 Optional Supper**

**6:15 Personnel Committee Meeting**

**7:00**

1. Welcome/Call to Order/Adoption of Agenda
2. Declaration of Conflicts of Interest
3. Volunteer Hours
4. Donation Envelope

**7:05**

5. Minutes of the August 24 Board of Directors Meeting (*White*)
6. Business Arising from the Minutes
  - 6.1. Celebrating Applegrove's 30<sup>th</sup> Anniversary in 2009
  - 6.2. Strategic Planning

**7:15**

7. Finance and Fundraising
  - 7.1. Monthly Financial Report (*Green*)
  - 7.2. Admin Budget Submission (to be circulated at the meeting)

**7:25**

- 7.3. Fundraising
  - i) The Bay “Giving Day” (*on financial report and see [www.thebay.com/givingday](http://www.thebay.com/givingday)*): for decision
  - ii) SPA Night Evaluation (see June Board minutes)
  - iii) Yoga-Thon: decision on whether to repeat
  - iv) Pasta Fest
  - v) Applicious: for info and to recruit volunteers (check [www.applicious.ca](http://www.applicious.ca) for activities, etc.)

**8:00**

8. New Business

**8:05**

9. Directors' Concerns

**8:10**

Adjournment



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## **Board of Management Meeting AGENDA -- Wednesday, September 17, 2008**

### **8:15**

- A. Call to Order/Adoption of Agenda
- B. Declaration of Conflicts of Interest
  
- C. Minutes of August 24 Board of Management Meeting (*White*)
  
- D. Business Arising from the Minutes (if any)

### **8:20**

- E. New Business
  - E.1. Closure for Winter Break (from Personnel Committee)
  - E.2. Code of Conduct for Board Members (*Grey*) for information

### **8:30**

- F. Executive Director's Report (*Pink*)

### **8:35**

- G. Correspondence/Information
  - G.1. List (*Cream*) to be distributed at meeting

### **8:40**

- H. Adjournment

### **Next Meeting**

Wednesday, October 22

### **Events**

Applicious Sept. 20, 11 to 4 at Queen & Kingston Road

Pasta Fest Oct. 25, 5 to 9 at Baron Byng hall



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## **Minutes of the Special Board of Directors Meeting August 24, 2008**

A neighbourhood partnership fostering community  
through social and informative programs for individuals and families.

Present: Estelle Halbach (Chair), Jennifer Large, Elena Nielsen, Tricia Reid, Lynn Wyminga

Regrets: Dev Balkissoon, Sandra Bussin, Pierre Trudel, Donald Yuen.

Staff: Susan Fletcher (Recorder).

### **Date of Next Meeting Wednesday, Sept. 17**

#### **1. Call to Order/Adoption of Agenda**

Estelle Halbach called the meeting to order. Quorum of 5 Directors was achieved. The agenda was accepted as circulated.

#### **2. Declaration of Conflicts of Interest**

None were declared.

#### **3. Minutes of the June 18 Board of Directors Meeting**

**MOTION** (Nielsen/Wyminga)

To accept the minutes of the June 18 Board of Directors meeting as circulated

**Carried.**

#### **4. Finance and Fundraising: Monthly Financial Report**

**MOTION** (Wyminga/Large)

To accept the June month end financial report.

**Carried.**

#### **5. Plans for Fall**

##### **5.1. After-School**

The Board received a report outlining expected funding and programming for an after-school program to begin on September 15.

##### **5.2. Teen**

The Board discussed options for the teen program. The program's Drug Prevention Funding has not been renewed. However, other funding and anticipated Jays Care funding should cover 2 evenings weekly of programming. The Board recognized the importance of the program and directed that it begin at 3 days per week, utilizing Raptors funding and that from a private donor. If sufficient Jays Care funding is not approved, the program can then be reduced to 2 evenings weekly.

Board of Directors Minutes

August 24, 2008

2

**6. Directors' Concerns**

Susan reported that Debbie Grainger had resigned. The Board agreed to accept her resignation with regret. The Board also identified individuals to approach to fill the vacancy.

**7. Adjournment**

The meeting was adjourned on a motion by Jennifer Large, seconded by Tricia Reid.

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Chair

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Secretary



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## **Minutes of Special Board of Management Meeting August 24, 2008**

Present: Estelle Halbach (Chair), Jennifer Large, Elena Nielsen, Tricia Reid, Lynn Wyminga  
Regrets: Dev Balkissoon, Sandra Bussin, Sheila Cary-Meagher, Pierre Trudel, Donald Yuen.  
Staff: Susan Fletcher (Recorder).

**A. Call to Order/Adoption of Agenda**

Estelle called the Board of Management Meeting to order and agenda was adopted as circulated. Quorum of 5 Board members was achieved.

**B. Declaration of Conflicts of Interest**

No conflicts were declared.

**C. Minutes of the June 18 Board of Management Meeting**

**MOTION** (Reid/Nielsen)

*To accept the minutes of the June 18 Board of Management Meeting.*

**Carried.**

**D. Executive Director's Report**

**MOTION** (Nielsen/Wyminga)

*To accept the Executive Director's Report.*

**Carried.**

**E. Next Meeting**

The Board confirmed its meeting on Wednesday, September 17.

**F. Adjournment**

The meeting was adjourned on a motion by Lynn Wyminga, seconded by Jennifer Large.

---

Chair

---

Secretary



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Email: [applegrove@applegrovecc.ca](mailto:applegrove@applegrovecc.ca)

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## Executive Director's Report

September 9, 2008

Except for my cottage weeks, my time since the June Board meeting has been absorbed almost entirely by Applicious, the admin. budget and Board business.

The Applicious Planning Committee and Geoff Hendry, our Event Planner, have worked very hard to create a fun and safe event to with objectives of

- fun and interaction for neighbourhood residents,
- partnership and fundraising opportunities to local services and organizations,
- promotion of local businesses/services/organizations,
- marketing Applegrove and supporting programs.

The logo, sponsorships, food, games and activities all work together to achieve these objectives and establish strong roots to grow the event in the coming years. To ensure that the event is affordable to our entire community, there are some free activities. To ensure that we raise money, most activities have a small fee. The committee has been careful not to waste food, so the event does not use real apples for activities like the Spoon on Apple race, recognizing that no one would want to eat their apples afterward. In contrast, Apple Peeling contestants will be able to eat their apples afterwards.



And Applicious has given us opportunities for new learnings such as:

- if you have 1,000 to 1,500 people from 11 to 4 without a beer garden, how many toilets do we need?
- how many apples do we need for the apple peeling contest?

This has been a lot of work, but much more fun than the Admin budget. It is due on Sept. 15, but I do not yet have all the information I require to finalize it. Once I have all the information to calculate the budget, the City requires reduction scenario(s) to reduce the total 2009 budget request to 2% below the 2008 total budget. This reduction scenario is required in spite of the following:

- Applegrove's audit fee (negotiated by the City) increased from \$2,600 to \$5,700.
- other required increases include merit/step increases, the full year impact of the 2008 mid-year Cost of Living Adjustment, and anticipated cost of living increases to postage, phone, etc.

One piece of information I still require is the TDSB rent for 2009. Obtaining a rent figure from the TDSB has been complicated by negotiations to renew Applegrove's lease. I have been working with Jack Harvey of FRED<sup>1</sup>. The TDSB staff member on this file resigned, there was some gapping, and the new person is taking some time to get up to speed. Key issues include

- the square footage to be included;
- hours of access; and
- building condition.

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<sup>1</sup> FRED = the City's Facilities and Real Estate Division

Your package includes a “Code of Conduct” from the City’s Integrity Commissioner. Chris Brillinger, the AOCC<sup>2</sup> liaison, will plan a training session focussing on this and the new Human Rights policy that is on our Personnel Committee’s agenda. For now, please read the Code of Conduct and bring any questions to the meeting so I can send them to Chris to form part of the training.

I am so very much looking forward to a warm, sunny and fun event on September 20. And looking forward to resuming a normal work pace afterwards. Louise and May take the lead for Pasta Fest; due to my allergies to pasta and tomatoes, this is not a good event for me!

Respectfully submitted,

Susan Fletcher.

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<sup>2</sup> AOCC = Association Of Community Centers, the 10 City-funded, Board-governed agencies like Applegrove

Applegrove Community Complex  
Summarized Financial Report  
as at 31/07/2008

		YTD Budget	YTD Actual	Variance		Common Issues (see below)	Special Notes
Admin	Expense	217,878	219,039	1,160	1%		
	Income	218,328	219,506	1,179	1%		
PC	Expense	67,842	64,025	(3,817)	-6%	D	Under-spent in both Material & Supplies and Purchased Services
	Income	55,503	69,849	14,346	26%		
EW	Expense	13,278	13,426	148	1%	C,D	
	Income	9,474	20,066	10,592	112%		
HAIG	Expense	7,529	4,559	(2,970)	-39%	C,F	Program worker's rate at a lower step
	Income	350	289	(61)	-17%		
HOBG	Expense	18,849	15,558	(3,290)	-17%	B,E	
	Income	16,505	17,004	499	3%		
Teen	Expense	16,130	16,079	(51)	0%	B,C,D,F	
	Income	969	9,237	8,269	854%		
After-school	Expense	16,273	15,777	(496)	-3%	D,F	Under-spent in both Material & Supplies and Purchased Services
	Income	2,006	4,315	2,309	115%		
Summer camp	Expense	30,479	27,499	(2,980)	-10%		Budgeted on monthly basis not according to pay period
	Income	30,480	30,737	257	1%		
Therapeutic Play	Expense	18,164	10,991	(7,173)	-39%	D	Participant supports(grocery vouchers, childcare, transportation) have a lower take-up
	Income	14,583	13,375	(1,208)	-8%		
Nevada	Expense		3,099				
	Income		4,666				
Fundraising & Board	Expense		3,882				
	Income		19,933				

B: on special year-end

C: operates less than a full year

D: funding received quarterly/semi-annually/annually but budgeted on monthly basis

E: salary & benefit include Board sponsored Program Worker

F: program is funded by 2007 surplus



**Applegrove Events and Board / Committee Meetings –September 29, 2008**  
**Office Phone 416-461-8143**

www.ApplegroveCC.ca

**Please note that Board meetings are on Wednesday evenings, usually the second last Wednesday of the month.**

<b>September</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
7	8 7 p.m. Applicious Planning	9	10	11	12	13
14	15	16 <b>10:30 a.m.</b> <b>Kitchen Party to celebrate</b> <b>Edgewood's new kitchen</b>	17 6:15 Personnel Committee 7:00 Board	18	19	20 11 to 4 Applicious
21	22	23	24	25	26	27
28	29	30				

<b>October</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6 7 p.m. Applicious Evaluation	7	8	9	10	11
12	13 Applegrove Closed for Thanksgiving	14	15	16	17	18
19	20	21	22 Board	23	24	25 5 to 9 Pasta Fest
26	27	28	29	30	31 <b>Happy Halloween!</b>	

**Bold** = community event. *Italics* = an important change. Underline = an Applegrove special event.  
 [Brackets] = another group's meeting or event that may affect you.

**Applegrove Events and Board / Committee Meetings –September 29, 2008**  
**Office Phone 416-461-8143**

<b>November</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11 Applegrove Closed for Remembrance Day	12	13	14	15
16	17	18	19 6:15 SPA Planning 7:00 Board	20	21	22
23	24	25	26	27	28	29
30						

<b>December</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17 Board?	18	19	20
21	22	23	24	25	26	27
28	29	30	31			
Applegrove Closed – Programs Resume in January						

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**Applegrove Events and Board / Committee Meetings –September 29, 2008**  
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<b>January 2009</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 Happy New Year!	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21 Board	22	23	24
25	26	27	28	29	30	31

<b>February</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16 Applegrove Closed for Family Day	17	18 Board	19	20	21
22	23	24	25	26	27	28

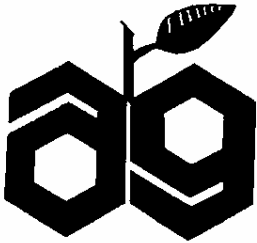
<b>March</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18 Board	19	20	21
22	23	24	25 AGM?	26	27	28
29	30	31				

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**Applegrove Events and Board / Committee Meetings –September 29, 2008**  
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<b>April</b> Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10 Applegrove Closed for Good Friday	11
12	13 Applegrove Closed for Easter Monday	14	15	16	17	18
19	20	21	22 Board	23	24	25
26	27	28	29	30	31	

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## CORRESPONDENCE/INFORMATION

September 2008

<b>From (Date Received)</b>	<b>Regarding</b>	<b>Action</b>
1. City Public Consultation Unit (July 2)	Biosolids and Residuals Master Plan peer review on Public Works committee agenda for June 27	R&F
2. Toronto Water (July 2)	Eastern Beaches Storm Sewer Outfalls Control open house on July 6	R&F
3. City Clerk (July 29)	Council adopted a report on Action Plans on Access, Equity and Human Rights and requested that ABC's <sup>1</sup> advise Council on their access, equity and human rights initiatives and accomplishments in 2009	Refer to Personnel Committee to develop tracking systems
4. City Clerk (July 14)	Council revised the Human Rights and Anti-Harassment policy and advised ABC's to revise their Human Rights Policy and complaints procedures consistent with the policy.	1. All managers to attend training by year end. 2. Refer to Personnel Committee
5. Medical Officer of Health (Aug. 6)	Consulting ABC's on implications of possible change to the Idling Control By-law. Currently allows 3 minutes of idling; considering reduction to 10 seconds.	Executive Director responded.
6. The Bay (Sept. 3)	Giving Day: the store gives us special tickets that provide 15% discount on almost everything on November 1. We sell the tickets for \$5 each and keep 100% of the proceeds.	On Board agenda

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<sup>1</sup> ABC's = Agencies, Boards and Commissions

R&F = Receive and File

***Additional* CORRESPONDENCE/INFORMATION**  
September 2008

**From (Date Received)**

**Regarding**

**Action**

7.



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## Draft Personnel Committee Agenda Wednesday, September 17 at 6:15 p.m.

1. **Christmas Break**
  - o our personnel policy states that Applegrove will be closed from December 24 to January 1 inclusive, and indicates that staff should use float days, stat holidays, and vacation time to cover their time off.
  - o with Christmas and New Year’s Day on Thursdays this year, the agency needs to consider what days the office, Helping Our Babies Grow and P/C should operate.
  - o HAIG’s permit closes it on school holidays.
  - o our practice has been to close Edgewood on school holidays.

December Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17 Board?	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

2. **City Practice Regarding Employees at more than one location**
3. **Plan Timing for Executive Director’s Performance Review**
  - A. Deadlines for staff and Board members to complete and submit form
  - B. Compile data – who does it and when
  - C. Personnel Committee Review of data
  - D. Submission of Executive Director’s Performance Planner and Report
  - E. Meeting with ED – who and when
4. **City of Toronto Human Rights and Anti-Harassment Policy (Orchid)**
5. **Hiring Reports (Orange)**  
Motion needed to discuss this item *in camera* (without guests or staff other than the Executive Director, Program Director, and staff representative), as it deals with identifiable individuals.
  - A. Summer (revised)
  - B. After-School
  - C. Teen
  - D. HAIG
  - E. Parent/Child
  - F. Event Planner
6. **Other Business**

7. **Next Meeting** To be scheduled.



**CODE OF CONDUCT FOR MEMBERS OF  
LOCAL BOARDS (RESTRICTED DEFINITION)  
CITY OF TORONTO**

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Note: This document is a modified version of the “Code of Conduct for Members of Council” for members of local boards (restricted definition), other than adjudicative boards.

There is a separate version of the Code of Conduct for members of local boards (restricted definition) that adjudicate.

## **AUTHORITY**

### **Consolidated Code of Conduct for Members of Council, including:**

#### *Historic*

- (1) “Code of Conduct for Members of Council Inclusive of Lobbyist Provisions” adopted, as amended, by City Council on September 28 and 29, 1999 (Clause 2 of Report 5 of the Administration Committee) and as amended by:
  - (a) “Amendments to Code of Conduct for Members of Council” approved by City Council on September 25, 26 and 27, 2006 (Clause 26 of Report 7 of the Policy and Finance Committee) that under Council action (2) came into force on February 8, 2007 following City Council’s approval on February 5, 6, 7 and 8, 2007 of the appeal mechanisms and legal support program in CC2.5 “Amendments to the Code of Conduct Complaint Protocol under Members Code of Conduct”; and
  - (b) “Report on Congruence between Lobbying By-law and Obligations under Members Code of Conduct” approved by Council on April 28 and 29, 2008 (EX 19.7, motions 1 and 2).

#### *Current*

- (2) This Code of Conduct for Members of Local Boards (Restricted Definition), other than adjudicative boards, was amended and adopted by City Council on July 15, 16 and 17, 2008 (2008 EX22.6, as amended by Council).

## **PREAMBLE**

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from members of Council and the citizen members who are appointed to local boards by Council to act on its behalf. In turn, adherence to these standards will protect and maintain the City of Toronto’s reputation and integrity.

To these ends, during its first term as a unified City, the City of Toronto, as one of several initiatives, adopted a *Code of Conduct for Members of Council*. Although the title refers to Members of Council, it was also binding on citizen members of local boards.

Subsection 157(1) of the *City of Toronto Act, 2006* now requires the City to establish codes of conduct for members of Council and of certain local boards of the City. In response to this requirement, the City has revised and updated the original *Code of Conduct* and developed two separate versions for local boards. Each Code of Conduct is intended to supplement and be compatible with the laws governing the conduct of members.

**This Code of Conduct is based on the following principles:**

- Members of local boards shall serve and be seen to serve the City and community in a conscientious and diligent manner;
- Members of local boards should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of local boards are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- Members of local boards shall seek to serve the City's and the public's interest by upholding both the letter and the spirit of applicable laws of the Federal Parliament and Ontario Legislature, and the laws and policies of Council and of the local board of which they are a member.

**I. DEFINITIONS**

In the *Code of Conduct*:

- (a) the following terms shall have the meanings indicated:

“Council” means the Council of the City of Toronto;

“local board” means a local board as defined in section 156 of the *City of Toronto Act, 2006*; and

“member” means a member of a local board.

- (b) the terms “child”, “parent” and “spouse” have the same meanings as in the *Municipal Conflict of Interest Act*:

“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;

“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

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

## **II. STATUTORY PROVISIONS REGULATING CONDUCT**

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members of local boards. The following provincial legislation governs the conduct of members:

- the *City of Toronto Act, 2006*, and, where applicable, Chapter 27, Council Procedures, of the Municipal Code (the Council Procedures By-law) passed under section 189 of that Act;
- the *Municipal Conflict of Interest Act*; and
- the *Municipal Freedom of Information and Protection of Privacy Act*.

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

## **III. APPLICATION**

This *Code of Conduct* applies to members of local boards other than adjudicative boards.

Members of adjudicative boards are governed by the *Code of Conduct for Members of Adjudicative Boards*.

Members of Council are bound by the *Code of Conduct for Members of Council*. However, when a Member of Council is acting in her or his capacity as a member of a local board, the Member of Council is also bound by provisions of this Code that are specific to the requirements of a local board.

## **IV. GIFTS AND BENEFITS**

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit 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.

The following are recognized as exceptions:

- (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:
  - 1. attendance serves a legitimate business purpose for the local board on which the member serves;
  - 2. the person extending the invitation or a representative of the organization is in attendance; and
  - 3. the value is reasonable and the invitations infrequent; and
- (h) communication to the offices of a member, including subscriptions to newspapers and periodicals.

Except for category (c) (political contributions allowable by law), these exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying). For these purposes, a lobbyist is an individual, organization or business that:

- [i] is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- [ii] the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or
- [iii] is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

In the case of categories (b), (e), (f), (g) and (h), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

1. the nature of the gift or benefit;
2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;
5. what the recipient intends to do with any gift; and
6. whether any gift will at any point be left with the City or the local board.

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City or local board.

Except in the case of categories (a), (c), and (f), a member may not accept a gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500.

## **V. CONFIDENTIAL INFORMATION**

Confidential information includes information in the possession of, or received in confidence by a local board that the local board is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as “MFIPPA”), or other legislation. Generally, the *Municipal Freedom of Information and Protection of Privacy Act* 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.

The *City of Toronto Act, 2006* allows information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation, to remain confidential. For the purposes of the *Code of Conduct*, “confidential information” also includes this type of information.

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 to do so by the local board or, if applicable, by Council.

Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of property or assets of the local board or City.

Under the City’s Procedures By-law (passed under section 189 of the *City of Toronto Act, 2006*), or similar provisions of the local board’s procedure by-law, a matter that has been discussed at an in-camera (closed) meeting remains confidential. No member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the local board,

committee of the local board or, if applicable, Council or one of its committees discusses the information at a meeting that is open to the public or releases the information to the public.

The following are examples of the types of information that a member must keep confidential:

- items under litigation, negotiation, or personnel matters;
- information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confidence);
- price schedules in contract tender or Request For Proposal submissions if so specified;
- information deemed to be “personal information” under the *Municipal Conflict of Interest Act*; and
- statistical data required by law not to be released (e.g. certain census or assessment data).

Members should not access or attempt to gain access to confidential information in the custody of the local board or City unless it is necessary for the performance of their duties and not prohibited by the local board or Council policy.

## **VI. USE OF BOARD AND CITY PROPERTY, SERVICES AND OTHER RESOURCES**

No member should use, or permit the use of local board or City land, facilities, equipment, supplies, services, staff or other resources (for example, local board or City-owned materials, websites, local board and City transportation delivery services and any members expense budgets) for activities other than the business of the local board or the City; nor should any member obtain personal financial gain from the use or sale of local board or City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the local board or City.

## **VII. ELECTION CAMPAIGN WORK**

No member shall use the facilities, equipment, supplies, services or other resources of the local board or the City (including the local board’s newsletters and websites linked through the local board’s or City’s website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on local board or City property unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes during the hours in which those persons receive any compensation from the local board or the City.

## **VIII. IMPROPER USE OF INFLUENCE**

No member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties as a member of the local board.

Examples of prohibited conduct are: the use of one's status as a member of a local board to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of others (similar to constituents of a Member of Council) as part of their official duties as a member of the local board. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within the local board or at the City, in return for present actions or inaction.

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

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

## **IX. BUSINESS RELATIONS**

No member shall act as a paid agent before an agency, board or commission of the City, the Council, and its committees, except in compliance with the terms of the *Municipal Conflict of Interest Act*.

A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

## **X. CONDUCT RESPECTING CURRENT AND PROSPECTIVE EMPLOYMENT**

No member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the local board and to the City.

## **XI. CONDUCT AT MEETINGS**

Members shall conduct themselves with decorum at the local board meetings in accordance with the provisions of the local board's procedure by-law and this Code of Conduct. Where the local board's procedure by-law does not address an issue, members should use Council's Procedures By-law as a reference.

## **XII. CONDUCT RESPECTING STAFF**

Members shall be respectful of the role of staff of the local board and, if applicable, staff of the City, to provide advice based on political neutrality and objectivity, and without undue influence from any individual member or faction of the local board. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

## **XIII. CONDUCT RESPECTING LOBBYISTS**

Lobbying of public office holders is a permissible but regulated activity in the City of Toronto. Lobbying is defined and regulated by Municipal Code Chapter 140, Lobbying (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct).

Members and their staff are public office holders. As a matter of general principle, as public office holders, members should be familiar with the terms of this lobbying by-law inclusive of the Lobbyist Code of Conduct (Chapter 140).

Specifically, members should not engage knowingly in communications in respect of the list of subject matters contained in the definition of "Lobby" as set out in Chapter 140 with a person who is not registered as required by Chapter 140.

Members should also not knowingly communicate with a registered lobbyist who is acting in violation of Chapter 140.

If a member is or at any time becomes aware that a person is in violation of Chapter 140, the member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by Chapter 140.

A member should report any such violation or attempted violation of Chapter 140 to the Lobbyist Registrar unless the member believes in good faith that the violation in communicating or attempting to communicate with the member was inadvertent or insignificant.

#### **XIV. DISCREDITABLE CONDUCT**

All members of local boards have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies and if applicable, the City's *Human Rights and Anti-harassment Policy* and the *Hate Activity Policy*.

#### **XV. FAILURE TO ADHERE TO COUNCIL OR LOCAL BOARD POLICIES AND PROCEDURES**

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members are required to observe the terms of all policies and procedures established by the local board and any Council policies and procedures that apply to the local board or its members.

This provision does not prevent a member from requesting that Council or the local board grant an exemption from a policy.

#### **XVI. REPRISALS AND OBSTRUCTION**

Members should respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

#### **XVII. ACTING ON ADVICE OF INTEGRITY COMMISSIONER**

Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner.

#### **XVIII. COMPLIANCE WITH THE CODE OF CONDUCT**

Subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council as well as local boards to impose either of two penalties on a member following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Conduct*:

1. A reprimand; or
2. Suspension of the remuneration, if applicable, paid to the member in respect of his or her services as a member of the local board for a period of up to 90 days.

In the case of a member of the local board who is a Member of Council, Council may also consider suspension of the remuneration paid to the member in respect of his or her services as a Member of Council for a period of up to 90 days.

### **Other Actions**

The Integrity Commissioner may also recommend that Council, or a local board that has authority to do so, take the following actions:

1. Removal from membership of a committee, sub-committee or panel of the local board or Council.
2. Removal as Chair of a local board, or a committee or subcommittee of a local board or of Council.
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to the local board, Council, the complainant, or to a combination of any of them.



**CODE OF CONDUCT COMPLAINT PROTOCOL  
FOR  
MEMBERS OF LOCAL BOARDS (RESTRICTED DEFINITION)  
INCLUDING ADJUDICATIVE BOARDS**

**AUTHORITY:**

*Historic*

1. Clause No.4 of Report No.2 of the Policy and Finance Committee, March 1, 2 and 3, 2004 as amended by:
  - (a) Clause No.1 of Report No.3 of the Policy and Finance Committee, held on April 25, 26 and 27, 2006; Item CC2.5 as adopted and amended by Council at its meeting held on February 5, 6, 7 and 8, 2007; Item CC11.8 as adopted by Council at its meeting held on July 16, 17, 18 and 19, 2007; and
  - (b) Notice of Motion M148, as adopted by Council at its meeting held on October 22 and 23, 2007.

*Current*

- (2) This Complaint Protocol for Members of Local Boards (Restricted Definition), Including Adjudicative Boards, was amended and adopted by City Council on July 15, 16 and 17, 2008 (2008 EX22.6, as amended by Council).

**APPLICATION:**

This Code of Conduct Complaint Protocol applies to local boards (restricted definition), including adjudicative boards that are local boards (restricted definition).

The Informal Complaint Procedure in Part A does not apply to members of adjudicative boards. Complaints regarding members of adjudicative boards must be processed under the Formal Complaint Procedure in Part B.

**PART A: INFORMAL COMPLAINT PROCEDURE**

Individuals [for example, City employees, members of the public, members of Council or local boards (restricted definition) (the “Board”)], or organizations (including Boards)

who have identified or witnessed behaviour or an activity by a member of a Board, other than an adjudicative board, that they believe is in contravention of the *Code of Conduct for Members of Local Boards (Restricted Definition)*, (the “Code of Conduct”), may wish to address the prohibited behaviour or activity themselves by taking the following actions through the Chair of the Board. If the complaint is about the Chair’s behaviour or activity, the complainant shall consult with the Integrity Commissioner on the appropriate contact.

- (1) request the Chair to advise the member that the behaviour or activity contravenes the Code of Conduct;
- (2) request the Chair to encourage the member to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) tell someone else (for example, a senior staff member or an officer of the organization) about your concerns, your comments to the member and the response of the member;
- (5) if applicable, through the Chair confirm to the member your satisfaction with the response of the member; or, if applicable, through the Chair advise the member of your dissatisfaction with the response; and
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure (except for complaints regarding members of adjudicative boards) as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. With the consent of the complaining individual or organization and the member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

## **PART B: FORMAL COMPLAINT PROCEDURE: Integrity Commissioner**

Statutory Authority:

Under section 160 of the *City of Toronto Act, 2006*:

- [a] City Council (“Council”), a member of council or a member of the public may request the Integrity Commissioner to conduct an inquiry about whether a member of a local board (restricted definition) has contravened the *Code of*

*Conduct for Members of Local Boards (Restricted Definition)*, or, where applicable, the *Code of Conduct for Members of Adjudicative Boards*; and

- [b] a local board (restricted definition) or a member of a local board (restricted definition) may request the Integrity Commissioner to conduct an inquiry about whether a member of the local board (restricted definition) has contravened the Code of Conduct.

#### Application

The Formal Complaint Procedure in this Part applies to complaints regarding members of local boards (restricted definition) including members of adjudicative boards.

In this Part, the applicable Code of Conduct as noted above is referred to as the “Code of Conduct” and a local board (restricted definition) is referred to as a “Board”.

#### **Requests for Inquiries s.1**

#### Complaint

1. (1) A request for an investigation of a complaint that a member has contravened the Code of Conduct (the “complaint”) shall be in writing.
- (2) All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).
- (3) A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code of Conduct and include a supporting affidavit that sets out the evidence in support of the complaint.  
[Affidavit: Complaint Protocol Members of Adjudicative Boards](#)  
[Affidavit: Complaint Protocol Members of Local Boards](#)  
For example, the complaint and supporting affidavit should include the name of the alleged violator, the provision allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.
- (4) Staff of the City Clerk’s division, who are commissioners for taking affidavits, are authorized to take the supporting affidavit.
- (5) Despite subsection (3), the Integrity Commissioner may waive the requirement for an affidavit when the request for an inquiry is from Council or a local board (restricted definition).

## **Initial Classification by Integrity Commissioner s. 2**

- |                 |   |
|-----------------|---|
| File with Clerk | 2. (1) The request shall be filed with the City Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council or Board policies as described in subsection (3).   |
| Deferral        | (2) If the complaint does not include a supporting affidavit, the Integrity Commissioner may defer the classification until an affidavit is received.   |
| No Jurisdiction | (3) If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council or Board policy, the Integrity Commissioner shall instruct the City Clerk to advise the complainant in writing as follows: <ul style="list-style-type: none"><li>(a) if the complaint on its face is an allegation of a criminal nature consistent with the <i>Criminal Code of Canada</i>, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;</li><li>(b) if the complaint on its face is with respect to non-compliance with the <i>Municipal Conflict of Interest Act</i>, the complainant shall be advised to review the matter with the complainant's own legal counsel;</li><li>(c) if the complaint on its face is with respect to non-compliance with the <i>Municipal Freedom of Information and Protection of Privacy Act</i>, the complainant shall be advised that the matter will be referred for review to the City's Director of the Corporate Access and Privacy office or, if these complaints are processed by the Board, the head of the Board's access and privacy office;</li><li>(d) if the complaint on its face is with respect to non-compliance with a more specific Council or Board policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and</li></ul> |

- (e) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

Reports

- (4) The Integrity Commissioner may report to Council or the Board that a specific complaint is not within the jurisdiction of the Integrity Commissioner.
- (5) The Integrity Commissioner shall report annually to Council or a Board on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

**Integrity Commissioner Investigation ss. 3 - 9**

Refusal to Conduct Investigation

- 3. (1) If the Integrity Commissioner is of the opinion that the referral of a matter 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, or, where that becomes apparent in the course of an investigation, terminate the investigation.
- (2) Other than in exceptional circumstances, the Integrity Commissioner will not report to Council or a Board on any complaint described in subsection (1) except as part of an annual or other periodic report.

Investigation & Settlement

- 4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and may attempt to settle the complaint.

- Public Inquiries Act*
- (2) Under subsection 160(2) of the *City of Toronto Act, 2006*, the Integrity Commissioner may elect to investigate a complaint by exercise of the powers of a commission under Parts I and II of the *Public Inquiries Act*.
  - (3) When the *Public Inquiries Act* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.
5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act*:
- (a) serve 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 or otherwise be filed within ten days; and
  - (b) serve a copy of the response provided upon the complainant with a request for a written reply within ten days.
- Access
- (2) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 160(3) and (4) of the *City of Toronto Act, 2006*, and may enter any City or Board work location relevant to the complaint for the purposes of investigation and settlement.
- Opportunity to Comment
- (3) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any member unless the member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.
- Interim Reports
- (4) The Integrity Commissioner may make interim reports to Council or the Board where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
- Final Report
- 6. (1) The Integrity Commissioner shall report to the complainant and the member generally no later than 90 days after the making of the complaint.

- (2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council or the Board, or both if appropriate, outlining the findings, the terms of any settlement, or recommended corrective action.
  - (3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council or the Board except as part of an annual or other periodic report.
  - (4) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.
- Lawful Recommendations
- Member not Blameworthy
- Copies
- Report to Council or Board
- 7. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct 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 of judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
  - 8. The City Clerk shall give a copy of the report to the complainant and the member whose conduct is concerned.
  - 9. The City Clerk shall process the report for the next meeting of Council or of a Board where appropriate, or both if required.

**Council or Board Review; Costs ss. 10 – 12**

- Duty of Council or Board
- 10. (1) Council or the Board shall consider and respond to the report within 90 days after the day the report is laid before it.
  - (2) In responding to the report, Council or the Board may vary a recommendation that it impose a penalty, subject to subsection 160(5) of the *City of Toronto Act, 2006*, but shall not refer the recommendation other than back to the Integrity Commissioner.
- Payment of Costs
- 11.(1) A complainant and a member who are parties to a complaint under this procedure shall each be reimbursed for actual and reasonable legal and related expenses up to a maximum of:
    - (a) \$5,000; or

- (b) \$20,000, if the Integrity Commissioner has elected to investigate the complaint by exercise of the powers of a commission under Parts I and II of the *Public Inquiries Act*.
- (2) In the case of an application under the *Judicial Review Procedure Act* for judicial review of actions taken on a complaint against a member of a Board by the Integrity Commissioner, Council or a Board:
- (a) where a member made the judicial review application, the member is eligible for reimbursement of legal costs, including additional legal costs in a successful application, that are not covered by the costs awarded by the court, up to a maximum of \$20,000.
  - (b) a member may apply for reimbursement of the legal costs of intervention in a judicial review application where the member's interests are at stake, up to a maximum of \$20,000.
- (3) Council or a Board may consider the reimbursement of costs above the limit in subsections (1) and (2) on a case by case basis.
- (4) Costs may be provided in advance in an investigation, if the Integrity Commissioner is of the opinion that the use of a lawyer by one or more of the parties would facilitate the carrying out of the investigation, and subsections (5) and (6) do not apply to the advance costs paid under this subsection.
- (5) Costs shall only be reimbursed under this section to the complainant, if the Integrity Commissioner concludes that the complaint is not frivolous, vexatious or made in bad faith and the Integrity Commissioner's conclusion is not overturned on judicial review.
- (6) Costs shall only be reimbursed under this section to the member:
- (a) if the Integrity Commissioner concludes that there has been no contravention of the Code of Conduct by the member or that the member is not blameworthy as described in section 7, and the Integrity Commissioner's conclusion is not overturned on judicial review; or
  - (b) where Council or the Board receives the Integrity Commissioner's report on a violation and determines that it should not take any action.

(7) Any award of costs under subsection (6) shall be contingent on a report from the City Solicitor in consultation with the Integrity Commissioner.

Confidentiality

12. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 161 and 162 of the *City of Toronto Act, 2006*, which are summarized in the following subsections.

(2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Part V of the *City of Toronto Act, 2006*.

(3) All reports from the Integrity Commissioner to Council or a Board will be made available to the public.

(4) Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

(5) The Integrity Commissioner in a report to Council or a Board on whether a member of the Board has violated the Code of Conduct shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

## **Human Rights and Anti-Harassment Policy Amendments**

<b>Date:</b>	May 2, 2008
<b>To:</b>	Employee and Labour Relations Committee
<b>From:</b>	City Manager
<b>Wards:</b>	All
<b>Reference Number:</b>	

### **SUMMARY**

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This report provides the rationale for and an overview of revisions to the City of Toronto Human Rights and Harassment Policy adopted by City Council in 1998.

The report also recommends a Human Rights Policy framework that is reflective of the current organizational structure, emerging human rights issues and amendments to the Ontario Human Rights Code.

### **RECOMMENDATIONS**

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**The City Manager recommends that:**

1. City Council approve the amended Human Rights and Anti-Harassment Policy attached in appendix A;
2. City Council delegate authority to staff to adopt complaint procedures for: a) complaints involving employees, b) complaints involving senior management and c) complaints by residents and recipients of municipal services;
3. City Council advise all Agencies, Boards and Commissions to revise their Human Rights Policy and complaint procedures, consistent with the provisions in this Policy;
4. the city manager report in one year on the City's experience with the amended Ontario Human Rights Code.

## **FINANCIAL IMPACT**

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There are no financial implications from this report beyond what has already been approved in the 2008 budget.

## **EQUITY IMPACT STATEMENT**

The Human Rights and Anti-Harassment Policy communicates the City of Toronto's commitment to provide harassment and discrimination-free service provision and employment practices. The goal of the City policy is to foster access to participation in the workplace and the City of Toronto community. Communications activities will ensure employees and service recipients are aware of their responsibilities and protections under the amended City policy.

## **DECISION HISTORY**

The Human Rights and Harassment Policy and Procedure was adopted by Toronto City Council on December 16 and 17, 1998. The City's policy has been revised to reflect changes to Toronto Public Service policies, structures and resources and emerging human rights issues in the organization. It has also been strengthened in response to the Ontario Human Rights Code amendments and to ensure that it continues to be effective.

## **ISSUE BACKGROUND**

Under the Ontario Human Rights Code employers and service providers are legally obligated to ensure that employment practices and service provision are free from discrimination and harassment. Legal decisions arising from provincial courts, the Ontario Human Rights Tribunal and arbitration rulings require organizations to develop appropriate policies and procedures for preventing and responding to discrimination and harassment. The 1998 City policy incorporated best practices and was modeled upon the internal dispute resolution framework recommended by the Ontario Human Rights Commission. The City's policy contributed to an environment of respect and inclusion by providing a safe venue for both employees and service recipients to raise human rights concerns.

During the past ten years, the City of Toronto has undergone many organizational, resource and policy changes. The City's 1998 policy is no longer reflective of the current organization. In addition to internal organizational change, the Ontario Human Rights Code has undergone the most significant changes since its inception more than 40 years ago. The *Human Rights Code Amendment Act, 2006* received Royal Assent on December 20, 2006 and comes into effect on June 30, 2008. The changes are designed to open up access and promote resolution of human rights complaints through the Human Rights Tribunal of Ontario's new and enhanced complaints process. Key changes include:

1. Access: Until now, the role of the Ontario Human Rights Commission was to receive, process, offer mediation and/or investigate complaints prior to determining whether a

complaint would be referred to the Tribunal for a hearing. Resolving human rights complaints through the Commission and Tribunal process took on average four to five years. The new Act introduces a “direct access” model to streamline the complaints process whereby complainants will no longer be required to file their complaints with the Ontario Human Rights Commission, but can file directly with the Human Rights Tribunal of Ontario. In order to address access to justice concerns the Province is creating and funding Human Rights Legal Resource Centres that will provide a full range of legal support services for all complainants, including legal representation at a Tribunal hearing. The Act also allows individuals to pursue human rights concerns through courts. This model is expected to increase legal representation in the complaints process and greatly increase costs of resolving complaints through the Tribunal’s new process.

2. **Procedural:** The Code currently permits the Commission to dismiss a complaint without an investigation or hearing in a number of circumstances, e.g., where an employee can exercise rights under a collective agreement. The new legislation does not prevent multiple proceedings. Therefore employees could file both a grievance and human rights complaint on the same issue and this is expected to increase costs related to staff having to prepare for and attend multiple proceedings.
3. **Expanded Monetary Damages:** The Act removes the current \$10,000 cap on damages for mental anguish. The Tribunal will also have the power to scrutinize settlements from other complaint bodies, e.g., arbitrations, to ensure that human rights issues have been thoroughly addressed. This is expected to increase the costs of resolving complaints at Arbitration and Tribunal hearings.
4. **Extended Limitation Period for Filing a Complaint:** The Act extends the limitation period for filing a complaint from six months to one year. It is anticipated that this extended time limit will increase the number of complaints to the City’s Human Rights Office and Tribunal. City record-keeping will be impacted as detailed documentation must be created and retained where human rights issues are raised.
5. **Commission’s Inquiry Role:** The Commission’s role to conduct an inquiry and promote human rights has been significantly enhanced. Two human rights areas have been given priority: race and disability. If the Commission believes there are systemic issues in an organization, it can conduct an extensive inquiry without a specific complaint being filed. This could affect the City of Toronto’s documentation, data collection and ability to respond to systemic complaints.

## **COMMENTS**

When Members of Council adopted the 1998 Human Rights Policy, the City was regarded as a leader for its progressive approach to human rights. The City’s policy provides protections beyond its legislated obligations and many external organizations have consulted the City’s policy in developing their own human rights processes. The City’s track record for compliant resolution under the City policy has been commendable:

since the adoption of the City policy in 1998, the City's Human Rights Office has successfully resolved between 500 and 600 human rights inquiries/complaints annually from both employees and residents. An annual average of ten complaints were filed at the Ontario Human Rights Commission during the same period and approximately 50% of these complaints were dismissed.

The current average cost of complaint resolution through the Ontario Human Rights Commission is \$65,000. Under the new process, complaint resolution costs are expected to be much higher. In order for City employees and service recipients to continue to use and have faith in the City's complaints resolution approach, the City's Human Rights Policy has been considerably strengthened. As with the 1998 City Policy, the amended City Policy is designed to ensure that the City continues to have a credible, accessible and fair internal human rights process for employees and service recipients and that it is perceived and experienced as a viable alternative to the potentially costly, new Human Rights Tribunal of Ontario process.

The revised City policy incorporates current best practices and builds on the framework of the City's 1998 policy that provided choice of complaint process; opportunity for dispute resolution at the division or corporate level; separation of complaint intake from formal investigation; formal investigation to be undertaken on an "arms length basis, outside the "chain of command"; the provision of education and training for all employees covered by the City policy and the submission of an annual report to City Council.

The revised City policy includes a name-change to Human Rights and Anti-Harassment Policy (Appendix A). The three key differences between the City's amended 2008 policy and the 1998 policy are:

- the addition of a *Roles and Responsibilities* section that clarifies and reinforces accountabilities for human rights;
- an expanded *Definitions* section to promote a consistent understanding of key concepts;
- the inclusion of *Harassment and Discrimination Prevention Educational Resources* to reinforce expectations to participate in ongoing education opportunities.

As with the City's 1998 policy, the Human Rights and Anti-Harassment Policy continues to set principles and standards of behaviour and goes beyond the protections offered in the Ontario Human Rights Code. It includes provisions about discrimination in employment based on level of literacy, political affiliation, membership in a union or staff association and any other personal characteristic. The City of Toronto's definition of "harassment" includes a policy commitment to the prohibition of non-Code or personal harassment. A growing body of case law supports the need for workplace policies and procedures that prescribe employer obligations to ensure that employee behaviour is appropriate. The inclusion of non-Code harassment in the policy is a best practice.

Complaint resolution procedures will be developed for complaints involving employees, complaints involving senior management and complaints by residents and recipients of municipal services.

Complaint resolution procedures will ensure that human rights issues raised under City policy provisions will be dealt with appropriately. The human rights complaint procedures will clearly describe the available dispute resolution options, including the provision of internal independent investigations and a legal right to seek redress under the Code. The process for making a complaint, access to expert advice, confidentiality commitments, the investigation process, potential outcomes, prohibition of reprisals, representation and documentation will also be addressed in the complaints procedures.

The implementation of the City's revised policy and complaint procedures will include a communications and training strategy. The complaint procedures will be reported in the 2008 Annual Human Rights Office Report.

When City Council adopted the Human Rights Policy at its meeting on December 16 and 17, 1998, it included a recommendation that Agencies, Boards and Commissions be requested to implement a Human Rights policy consistent with the provisions of the City policy. Agencies, Boards and Commissions increasingly have their own internal policies and complaint procedures to address human rights issues. In order to maintain a consistent approach to human rights, the City's Agencies, Boards and Commissions will need to ensure that their human rights policies and complaint procedures reflect amendments to the legislation and are consistent with provisions in the City policy.

## **CONTACT**

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## **SIGNATURE**

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City Manager

## **ATTACHMENTS**

Appendix A - Human Rights and Anti-Harassment Policy