



INFORMATION ONLY

Date: April 11, 2018

Subject: Changes to the Code of Conduct for Members of Local Boards

The attached correspondence from Valerie Jepson, Integrity Commissioner, City of Toronto regarding Changes to the Code of Conduct is before the Board for its information.

Original signed by Kevin Lee

Head of Commission Services

March 15, 2018

Sent via E-Mail (No Original to Follow)

Attention: Chairs
City of Toronto Local Boards
See Schedule A for list of Recipients
Toronto, Ontario

Dear Chair:

Re: Changes to the Code of Conduct

I write to bring your attention to recent changes to the Code of Conduct for members of Toronto boards. The updated Code, which is called the "Code of Conduct for Members of Local Boards (Restricted Definition)", is attached. I would appreciate it if you could provide this letter and the new Code of Conduct to all members of the board that you chair and that this item be included on your upcoming board meeting agenda for consideration.

There are three main changes that all board members should be aware of:

- **Doing Business with the Board.** Article IX of the Code of Conduct has been amended to prohibit board members from personally or directly providing goods or services to the board for payment. This is a significant change, and I acknowledge some time will be required to allow members who are currently providing the board with goods or services to transition into compliance with the new obligation. I have issued an interpretation bulletin to assist with the transition, which is also attached.
- **Outside Activities.** New Article X.1 of the Code of Conduct stipulates that a member of the Board of Management cannot hold a senior position (director or executive) with an organization whose objectives or mandate are in conflict with the board.
- **Confidential Information.** Article V of the Code of Conduct has been amended to clarify the meaning of "confidential information", and to provide greater clarity about board members' obligations to avoid disclosing or using such information. These changes to Article V are clarifying in nature and should not impact any board operations.

There were additionally a number of housekeeping amendments to the Code of Conduct that in my opinion should not significantly impact board members' activities.

I remain available to you and all board members to provide education and advice.

Yours truly,



Valerie Jepson
Integrity Commissioner

Enclosures (2): Code of Conduct for Members of Local Boards (Restricted
Definition) (10 pages)
Interpretation Bulletin: Article IX of the Code of Conduct (Business
Relations) (2 pages)

cc: Ulli Watkiss, City Clerk
Marilyn Toft, Manager, Council Secretariat Support
Aretha Phillip, Manager, Community Councils & Committees
Peter Wallace, City Manager
Meg Shields, Director, Corporate Policy

Schedule A

List of City of Toronto Local Board Recipients

Service and Program Operating Boards

- Exhibition Place
- Heritage Toronto
- Toronto Civic Theatres
- Toronto Parking Authority
- Toronto Transit Commission
- Toronto Zoo
- Yonge-Dundas Square

Arena Boards

- George Bell Arena
- Larry Grossman Forest Hill Memorial Arena
- Leaside Memorial Community Gardens Arena
- McCormick Playground Arena
- Moss Park Arena
- North Toronto Memorial Arena
- Ted Reeve Community Arena
- William H. Bolton Arena

Association of Community Centres

- 519 Church Street Community Centre
- Applegrove Community Complex
- Cecil Street Community Centre
- Central Eglinton Community Centre
- Community Centre 55
- Eastview Neighbourhood Community Centre
- Harbourfront Community Centre
- Ralph Thornton Community Centre
- Scadding Court Community Centre
- Swansea Town Hall

Financial/Administrative Boards

- Sinking Fund Committee
- Toronto Atmospheric Fund
- Toronto Investment Board
- CreateTO (formerly Toronto Realty Agency Board)



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

TABLE OF CONTENTS

AUTHORITY.....	2
PREAMBLE.....	2
I. DEFINITIONS.....	3
II. STATUTORY PROVISIONS REGULATING CONDUCT.....	3
III. APPLICATION.....	3
IV. GIFTS AND BENEFITS.....	4
V. DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION.....	5
VI. USE OF BOARD AND CITY PROPERTY, SERVICES AND OTHER RESOURCES.....	6
VII. ELECTION CAMPAIGN WORK.....	6
VIII. IMPROPER USE OF INFLUENCE.....	7
IX. BUSINESS RELATIONS.....	7
X. CONDUCT RESPECTING CURRENT AND PROSPECTIVE EMPLOYMENT.....	7
X.1 OUTSIDE ACTIVITIES.....	7
XI. CONDUCT AT MEETINGS.....	8
XII. CONDUCT RESPECTING STAFF.....	8
XIII. CONDUCT RESPECTING LOBBYISTS.....	8
XIV. DISCREDITABLE CONDUCT.....	9
XV. FAILURE TO ADHERE TO COUNCIL OR LOCAL BOARD POLICIES AND PROCEDURES.....	9
XVI. REPRISALS AND OBSTRUCTION.....	9
XVII. ACTING ON ADVICE OF INTEGRITY COMMISSIONER.....	9
XVIII. COMPLIANCE WITH THE CODE OF CONDUCT.....	9
Other Actions.....	10

There is a separate version of the Code of Conduct for members of City Council and for local boards (restricted definition) that are adjudicative boards.

AUTHORITY

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).
- (2) This Code of Conduct for Members of Council was amended and adopted by City Council on July 15, 16, and 17, 2008 (2008) EX22.6, as amended by Council) and amended by Council on July 6 and 7, 2010.

Current

- (3) This Code of Conduct for Members of Local Boards (Restricted Definition) was adopted by City Council on January 31, February 1 and 2, 2018 (EX30.17).

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.

This Code of Conduct for Members of Local Boards (restricted definition) 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) "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*.

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 and federal 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*;
- the *Municipal Freedom of Information and Protection of Privacy Act*;
- the *Ontario Human Rights Code*;
- the *Securities Act*; and,
- the *Criminal Code of Canada*.

III. APPLICATION

This *Code of Conduct* applies to members of local boards (restricted definition).

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 ("gifts or benefits") 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, any gifts or benefits 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 or benefit to that member.

The following are recognized as exceptions:

- (a) compensation authorized by law;
- (b) such gifts or benefits that are received as an incident of protocol or social obligation;
- (c) a suitable memento of a function honouring the member;
- (d) 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; and,
- (e) 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.

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).

In the case of categories (b), (c), (d) and (e), 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) and (d), 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. DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION

Members shall not 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.

Members shall not use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.

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

Confidential information includes but is not limited to information in the possession of, or received in confidence by a local board that the local board is: prohibited from disclosing or using for a purpose other than the purpose for which it was received; required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as "MFIPPA"); restricted from using or disclosing under the *Criminal Code*; restricted from using or disclosing under the *Securities Act*; restricted from using or disclosing due to contractual obligations or policies of the local board or City Council..

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 constitutes confidential information. 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.

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.

The following are additional examples of the types of confidential information to which the obligations in this Article apply:

- 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;
- purchasing strategies, including timing, establishment of criteria, budget considerations;
- commercially-sensitive information received under the condition of confidentiality;
- information deemed to be "inside information" under the *Criminal Code*;
- information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*, and
- statistical data required by law not to be released (e.g. certain census or assessment data).

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 the local board or provide goods, consulting or other services to the local board directly or through a partnership, professional or closely-held corporation.

If a member becomes aware that an entity, for which the member has a material interest, is a director, employee or agent, may offer or provide goods, consulting or other services to the local board, the member will disclose these circumstances to the Chair and seek advice from the Integrity Commissioner about the application of the *Municipal Conflict of Interest Act* and whether, in consideration of the circumstances, ongoing board membership is in the best interests of the local board. In providing this advice, the Integrity Commissioner will consider the risk of harm to the reputation of the local board.

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.

X.1 OUTSIDE ACTIVITIES

Members shall not be a director or hold an executive position with any organization whose objectives and mandates are in conflict with, or may reasonably be perceived to be in conflict with, the objectives and mandates of the local board. Before taking on a new executive position, the member shall inform the Chair and the Integrity Commissioner to

obtain advice about the new circumstances.

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

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.

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 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).

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 are obligated to cooperate with investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is prohibited. It is 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 also 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

City Council, or a local board that has authority to do so, may take the following actions following a report by the Integrity Commissioner:

1. Remove a member from their membership on a committee, sub-committee or panel of the local board or Council.
2. Remove a Chair of a local board, or a committee or subcommittee of a local board or of Council.
3. Require the repayment or reimbursement of moneys improperly received by the member or received by another person at the direction of the member.
4. Require the return of a gift or benefit 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.

Article IX of the Code of Conduct (Business Relations)

Purpose of the Bulletin

1. This Bulletin is intended to assist members of local boards ("members") understand and comply with a recent amendment to Article IX of the Code of Conduct for Members of Local Boards (Restricted Definition) (the "Code of Conduct").

Article IX (Business Relations)

2. Effective February 1, 2018, City Council approved changes to the Code of Conduct. Amended Article IX states:

No member shall act as a paid agent before the local board or provide goods, consulting or other services to the local board directly or through a partnership, professional or closely-held corporation.

If a member becomes aware that an entity, for which the member has a material interest, is a director, employee or agent, may offer or provide goods, consulting or other services to the local board, the member will disclose these circumstances to the Chair and seek advice from the Integrity Commissioner about the application of the *Municipal Conflict of Interest Act* and whether, in consideration of the circumstances, ongoing board membership is in the best interests of the local board. In providing this advice, the Integrity Commissioner will consider the risk of harm to the reputation of the local board.

Services for payment

3. Article IX prohibits board members from providing goods, consulting or other services *for payment* to the local board—either directly, or through a partnership or professional or closely-held corporation.
4. Services includes the rental of space.

5. Article IX does not prohibit board members from volunteering time to support events or similar activities, in addition to the time required to fulfill their duties as board members.

Transition Period

6. The amendment is a significant change. There may be board members who are currently providing goods or services to the board, and who would therefore be in breach of amended Article IX by virtue of the amendment.
7. It is the Integrity Commissioner's view that an appropriate period of time is warranted to allow board members to become familiar with the change, and to take steps to bring their conduct into compliance with amended Article IX.
8. To facilitate an orderly transition, the Integrity Commissioner has determined that no board member will be found to have contravened amended Article IX where an agreement to provide goods, consulting, or other services was in place prior to February 1, 2018—unless the complaint is made after January 1, 2019.
9. Between now and the end of 2018, boards and their members should review their business relationships and seek necessary advice from City staff and the Integrity Commissioner to ensure that all board members are in compliance with Article IX on January 1, 2019.

Further Information

This interpretation bulletin is intended to provide general information. To rely on the Integrity Commissioner's advice respecting specific situations, members must seek written advice consistent with Article XVII of the Code of Conduct.

If you have any questions, please contact:

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