Council *Code of Conduct* **November 12, 2012**

Whereas the *Municipal Act, 2001* authorizes municipalities to establish a *Code of Conduct* for Members of Council or local boards of the municipality;

And whereas the establishment of a *Code of Conduct* for Members of Council is consistent with the principles of transparent and accountable government;

And whereas the establishment of a *Code of Conduct* for Members of Council is also reflective of the City's core values of Trust, Quality and Excellence in public service;

And whereas the elected officials of the City of Mississauga have and continue to recognize their obligation to serve their constituents in a conscientious and diligent manner recognizing that as leaders of the community, they are held to a higher standard of behaviour and conduct;

And whereas ethics and integrity are at the core of public confidence in government and in the political process, and elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real and the need to uphold both the letter and the spirit of the law including policies adopted by Council;

And whereas a *Code of Conduct* ensures that Members of Council share a common basis and understanding for acceptable conduct extending beyond the legislative provisions governing the conduct of Members of Council as set out in the *Municipal Act, 2001*; *Municipal Conflict of Interest Act*; *Municipal Elections Act, 1996*; and the *Municipal Freedom of Information and Protection of Privacy Act*.

Now therefore the Council of the City of Mississauga adopts certain rules in the form of a Council *Code of Conduct* and a Complaint Protocol that further underscore the requirement that elected officials be independent, impartial, and duly responsible in serving their constituents.

Application

This *Code of Conduct* applies to the Mayor and all Members of Council ("Members")

Framework and Interpretation

1. The *Code of Conduct* is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document the Code of Conduct will be brought forward for review at the end of each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.

2. Commentary and examples used in this *Code of Conduct* are illustrative and not exhaustive. From time to time additional commentary and examples may be added to this document and supplementary materials may also be produced by the Integrity Commissioner as deemed appropriate.

3. Where an elected official discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that he or she is asked to investigate a complaint.

4. Elected officials seeking clarification who are provided advice in a general way, cannot rely on advice given by the Integrity Commissioner to the same extent as advice given in respect of specific facts. Advice that is general in nature is subject to change when applied to specific facts that may not have been known at the time the general advice was provided.

5. Elected Officials seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.

6. The *Municipal Act, 2001* is the primary piece of legislation governing municipalities however there are other statutes that govern the conduct of elected municipal officials. It is intended that the *Code of Conduct* operate together with and as a supplement to the following legislation:
   - *Municipal Act, 2001;*
   - *Municipal Conflict of Interest Act;*
   - *Municipal Elections Act, 1996;*
   - *Municipal Freedom of Information and Protection of Privacy Act;*
   - *Criminal Code of Canada.*

7. In carrying out his or her responsibilities regarding the *Code of Conduct,* the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member, and for clarity the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

<u>Definitions</u>

a. In the *Code of Conduct* 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 parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

"spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

b. "Family Member" means a spouse, common-law partner, or any other person with whom the person is living as a spouse outside of marriage;
    - child, includes step-child and grand-child;
    - siblings.

c. "Member" means a member of the Mississauga City Council, including the Mayor.

d. "staff" includes the City Manager and Chief Administrative Officer, Commissioners, Directors, Managers, Supervisors and all non-union and union staff whether full-time, part-time, contract, seasonal or volunteers.

e. "Nomination Day" means the last day for filing or withdrawing a nomination as provided for by the *Municipal Elections Act, 1996*.

f. A Member has an apparent conflict of interest (as referred to in Rule 1b) if a well informed reasonable person could properly have a reasonable perception, that the Member's impartiality in deciding to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

Rule No. 1

Key Principles that Underlie the *Code of Conduct*:

a. **Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner.**

Commentary

Members of Council recognize the public's right to reasonable access to information in relation to how decisions are made. The public's right to access however must be balanced against the requirement to protect the legitimate interests of the City and the respect for approved policies of the City.

b. **Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and private conflicts of interest, both apparent and real. Members of Council shall also not extend in the discharge of their official duties, preferential treatment to Family Members, organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest.**

Commentary

Members of Council have a common understanding that in carrying out their duties as a Member of Council, they will not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family Member or an individual which is not available to every other individual.

Members of Council are governed by the *Municipal Conflict of Interest Act* and in the event a complaint under the Act is filed with the Court, the provisions of that statute take precedence over any authority given to the Integrity Commissioner to receive or investigate complaints regarding alleged contraventions under the *Municipal Conflict of Interest Act*. It is intended that the Integrity Commissioner be empowered to investigate and rule on all conflicts of interest, whether pecuniary or non-pecuniary until Court proceedings are started under the Act.

c. **Members of Council 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.**

Commentary

Members of Council may seek conflict of interest advice, including a written opinion, from the Integrity Commissioner however, where members choose to seek external legal advice on conflict of interest issues, these fees will not be reimbursed by the City of Mississauga and cannot be charged to any office account.

Members of Council shall not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to an individual which is not available to every other individual member of the public. For example, Members shall remain at arm's length when City staff or Council is asked to consider a matter involving a Family Member or a person or organization with whom the Member has a real or apparent conflict of interest.

d. Members of Council shall avoid any interest in any contract made by him/her in an official capacity and shall not contract with the City or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.

e. Members of Council, while holding public office, shall not engage in the management of a business and shall not profit directly or indirectly from such business that does or has contracted with the City of Mississauga.

f. Despite subsection e., a Member of Council may hold office or directorship in an agency, board, commission or corporation where the Member has been appointed by City Council or by the Council of the Regional Municipality of Peel or by the Federal or Provincial government.

g. Despite subsection e., a Member of Council may hold office or directorship in a charitable, service or other not-for-profit corporation subject to the Member disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity Commissioner approving the activity, as carried out in the specified manner, which concludes that the Member does not have a conflict between his/her private interest and public duty. In circumstances where the Integrity Commissioner has given the Member a qualified opinion, the Member of Council may remedy the situation in the manner specified by the Integrity Commissioner.

Commentary

Examples of exceptions include hospital boards, charitable boards, police services boards, community foundations, the Association of Municipalities of Ontario, the Federation of Canadian Municipalities, service clubs such as the Rotary Club, Lions Club and other not-for-profit organizations. Members should exercise caution if accepting such positions if the organization could be seeking a benefit or preferential treatment from the City at any time.

h. Members of Council shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal parliament, Ontario legislature, and by City Council.

Commentary

The provisions of this *Code* are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour set out in current federal and provincial statutes.

To ensure the *Code* remains a living document that will remain current and continue to be a beneficial guide, the *Code* shall be brought forward for review at the end of each term of Council, with any changes to be implemented at the start of the following Council session.

i. In fulfilling their roles as elected officials, Members of Council shall respect the role of staff in the administration of the business affairs of the City and in so doing will comply with the City's *Respectful Workplace* policy.

Commentary

Decision-making authority lies with Council, and not with an individual Member. Members of Council recognize that it is the role of the officers and employees of the City to implement Council's decisions and to establish administrative practices and procedures to carry out Council's decisions. Council is the source of all legislative authority and will make decisions on whether and to what extent to delegate this authority to others, including the Mayor, committees and to staff. Only Council as a whole has the capacity to direct staff members. Council as a whole must be able to access information in order to fulfill its decision-making duties and oversight responsibilities however, individual Members of Council must also recognize that the information they receive in their capacity as elected officials, is subject to confidentiality and disclosure rules contained in federal and provincial legislation and City policies.

Rule No. 2

<u>Gifts and Benefits</u>:

1. No Member shall accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of his/her duties of office unless permitted by the exceptions listed below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than reasonable market value or at no cost.

   For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Family Member 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 at an official event;
   g. food and beverages consumed at banquets, receptions or similar events, if:
      i. attendance serves a legitimate business purpose;
      ii. the person extending the invitation or a representative of the organization is in attendance; and
      iii. the value is reasonable and the invitations infrequent;
   h. communication to the offices of a Member, including subscriptions to newspapers, and periodicals; and
   i. sponsorships and donations for community events organized or run by a Member or by a third party on behalf of a Member and subject to the limitations set out in the *Code of Conduct* respecting Council Member-organized community events, where all costs are incurred and where all such events occur on or before Nomination Day.

Commentary

Members should be transparent in their dealings with the public, and neither a Member of Council or the City should handle funds on behalf of any organizations. Members should remain at arm's length from the financial aspects of these events and initiatives.

a) Members may use their office expense budget to run or support local charities and community events subject to the terms of the *Elected Officials' Expenses* policy;

b) Members may urge constituents, businesses and other groups to support community events put on by others in the Member's ward or elsewhere in the City;

c) Members may work with community groups to assist them in finding sponsors and participants to support community events put on by the community group in the Member's ward or elsewhere in the City.

d) Members may play an advisory or membership role in any organization that holds community events in the Member's ward; and

e) Members may collaborate with the City and its agencies to hold community events and may participate in the City's Festival Funding Review Committee and other events approved by City Council.

2. In the case of exceptions claimed under categories 1. b, e, f, g, h and i,

    a) where the value of the gift or benefit exceeds $500, or if the total value received from any one source during the course of a calendar year exceeds $500, the Members shall within 30 days of receipt of the gift or reaching the annual limit, list the gift or benefit on a Councillor Information Statement in a form prescribed by the Integrity Commissioner, and file it with the Integrity Commissioner.

    b) Subsection a) does not apply to the receipt of up to two tickets to a dinner or fundraising, as long as the Member is attending only one such event with the same individual or corporation within any calendar year.

    c) For clarification, Members are authorized to receive gifts, mementos and benefits which are common to receive in the normal course of fulfilling their duties. Members are not obliged to list on a Councillor Information Statement or anywhere else, a record of their receipt, unless the total value of such gifts or benefits received from any one source in a calendar year exceeds $500.

3. On receiving a Councillor Information Statement, the Integrity Commissioner shall examine it to determine whether the receipt of the gift or benefit might, in the opinion of the Integrity Commissioner, 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/she shall call upon the Member to justify receipt of the gift or benefit.

4. Should the Integrity Commissioner determine the receipt was inappropriate, the Integrity Commissioner may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or the Integrity Commissioner may order the Member to forfeit the gift or remit the value of any gift or benefit already consumed to the City, or a City agency, board or commission. Any such direction ordered by the Integrity Commissioner shall be a matter of public record.

5. Beginning January 31, 2012 and quarterly thereafter, each Member shall file a Declaration with the Integrity Commissioner in a form prescribed by him, that he or she has received no gift or benefit which exceeds in value the sum of $500 alone or in the aggregate, except as may have been disclosed in a Councillor Information Statement filed with the Integrity Commissioner and all such Declarations shall be a matter of public record.

Commentary

Gifts and benefits are often received by elected officials in the course of their duties and attendance at public functions is expected and is considered part of their role. Business-related entertainment and gift-giving can be a token of respect and admiration for the elected official, but can also be seen as an instrument of influence and manipulation. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits and to establish a threshold where the total value could be perceived as potentially influencing a decision.

The practical problems that nominal gifts and benefits create require a *Code of Conduct* that provides clarity and transparency. Personal integrity and sound business practices require that relationships with developers, vendors, contractors or others doing business with the City be such that no Member of Council is perceived as showing favouritism or bias toward the giver. There will never be a perfect solution.

Each Member of Council is individually accountable to the public and is encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values, in their offices for review by the Integrity Commissioner in the event of a complaint.

Those gifts or benefits that exceed $500 or the annual limit of $500 for one source, need to be kept on a form prescribed by the Integrity Commissioner and filed with the Integrity Commissioner on a quarterly basis to ensure transparency.

Examples of gifts that are required to be listed on the Councillor Information Statement may include:

i) property (i.e. a book, flowers, gift basket, painting or sculpture, furniture, wine);
ii) membership in a club or other organization (i.e. a golf club) at a reduced rate or at no cost;
iii) an invitation to and/or tickets to attend an event (i.e. a sports event, concert, play) at a reduced rate or no cost;
iv) or an invitation to attend a gala or fundraising event at a reduced rate or at no cost.

Use of real estate or significant assets or facilities (i.e. a vehicle, office, vacation property) at a reduced rate or at no cost is not an acceptable gift or benefit. Having said that, it has to be recognized that Members of Council will have friends and will develop friendships with individuals who may from time to time have business relationships that will involve the City in some way. The purpose of the *Code* is not to prohibit Members from accepting all invitations to socialize at a vacation property of personal friends.

Proper caution and diligence must however be exercised when a social function occurs within close proximity to the individual having an issue before City Council or staff for approval. It is always prudent to consult with the Integrity Commissioner before accepting or attending at any such engagements.

Any doubts about the propriety of a gift should be resolved in favour of not accepting it or not keeping it. It may be helpful to consult with the Integrity Commissioner when a Member chooses to decline a gift as well as when a recipient may opt to keep a gift.

An invitation to attend a function where the invitation is directly or indirectly connected with the Member's duties of office is not considered to be a gift but is the fulfillment of an official function or duty. An invitation to attend a function with a developer or supplier, however, could be seen as allowing the giver an opportunity to influence the elected official. Such invitations should only be accepted if the invitation is within the scope of permissible gifts and benefits, meaning that Members should not consistently accept invitations from the same individual or corporation and should avoid any appearance of favouritism.

For clarification, an invitation to an event celebrating the successful completion of a development or project or the opening of a new business within the Member's ward on the other hand could serve a legitimate business purpose and be seen as part of the responsibilities of office provided the person extending the invitation or that person's representative is in attendance.

An invitation to attend a charity golf tournament or fund-raising gala, provided the Member of Council is not consistently attending such events as a guest of the same individual or corporation, is also part of the responsibilities of holding public office. Likewise, accepting invitations to professional sports events, concerts or dinners may serve a legitimate business purpose. Where a Member is uncertain in regards to whether an invitation is or is not appropriate, it may be prudent to consult with the Integrity Commissioner before attending any such event.

Regular invitations to lunch or dinner with persons who are considered friends of Members of Council is acceptable in situations where the Member pays their portion of the meal expense and treats it as a personal expense, meaning a claim is not made under the *Elected Officials' Expenses* policy. Proper caution and diligence not to discuss matters before the City for a decision must be exercised at all times. Again, when in doubt it is prudent to consult with the Integrity Commissioner.

Rule No. 3

Councillor Expenses:

There are a range of expenses that support a Member's role in community development and engagement activities within their ward. For federal and provincial elected officials, these expenses are often paid for by Riding Association funds. Municipal elected officials do not have this benefit. Subject to the *Elected Officials' Expenses* policy, this section of the Council *Code of Conduct* deals with community expense-events, will indicate allowable expenses for reimbursement and provide guidelines for Members of Council respecting community expenses related to a Member's role in community development, and reflecting which expenses are eligible for reimbursement from a Member's office expense budget.

1. Raffle tickets, table prize tickets and other gaming tickets are not eligible for reimbursement.

2. Sponsorship of teams or individuals, such as the provision of uniforms or equipment, are not eligible for reimbursement.

3. Expenses incurred by Members working during normal meal periods serve a legitimate public duty purpose, provided that the expenses incurred are reasonable and appropriate in the circumstances. Reasonable and appropriate expenses are those that are incurred for an official duty or function; are modest and represent the prudent use of public funds; and do not involve the purchase of alcoholic beverages.

4. Official duties or functions include those activities that are reasonably related to a Member's office, and must take into consideration the different interests, the diverse profiles of their wards, their different roles on committees, agencies, boards and commissions. Municipal elected officials will be expected or required to extend hospitality to external parties as part of their official duties and functions, and it is legitimate for expenses to be incurred for this purpose. It is legitimate for Members to incur hospitality expenses for meetings that include:

    a. engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;

    b. providing persons from national, international and charitable organizations with an understanding and appreciation of the City of Mississauga or the workings of its municipal government;

    c. honouring persons from the City of Mississauga in recognition of exceptional public service and staff appreciation events;

    d. recognition events for various agencies, boards and commissions of the City;

e. ratepayers associations, minor league sports associations and other community groups.

5. Hospitality expenses may be incurred while extending hospitality in the course of travelling on a duty or function or as a Member of Council, provided the expenses are reasonable and appropriate in the circumstances.

6. As community leaders, Members may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups monies raised through fundraising efforts shall go directly to the groups or volunteers or chapters acting as local organizers of the group and Members of Council should not handle any funds on behalf of such organizations.

   Members of Council routinely perform important work in supporting charitable causes and in so doing, there is a need for transparency respecting the Member's involvement. The following guidelines shall apply:

   a. Members of Council should not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising;

   b. Members of Council or persons acting on behalf of a Member shall not solicit or accept support in any form from an individual, group or corporation, with any pending significant planning, conversion or demolition variance application or procurement proposal before City Council, which the Member knew or ought to have known about.

   c. With reference to member-organized community events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event.

   d. Where a Member of Council sponsors and/or lends support to a community or charitable event, this *Code* recognizes that all donations are subject to the *Elected Officials' Expenses* policy.

   e. No donation cheques should be made payable to a Member of Council or to the City of Mississauga. Members of Council may only accept donation cheques made payable to a Business Improvement Association, charity or community group and only for the purpose of passing the cheques on to such group.

   f. Members of Council should not handle any cash on behalf of any charitable organization, not-for-profit or community group, and should always remain at arm's length from the financial aspects of these community and external events. If a Member of Council agrees to fundraise on behalf of a charity or community group, the Member should ensure that payment is received by a means that does not involve cash, including bank draft, money order, credit card or cheque made payable to the applicable group or organization.

7. Nothing included herein affects the entitlement of a Member of Council to:

i) use the Member's office expense budget to run or support community events subject to the terms of the *Elected Officials' Expenses* policy section relating to Community Expense events;

ii) urge constituents, businesses or other groups to support community events and advance the needs of a charitable organization put on by others in the Member's ward or elsewhere in the City;

iii) play an advisory ex officio, honorary or membership role in any charitable or non-profit organization that holds community events in the Members' ward; and

iv) collaborate with the City of Mississauga and its agencies, boards or commissions to hold community events.

Commentary

By virtue of the office, Members of Council will be called upon to assist various charities, service clubs and other non-profits as well as community associations, by accepting an honourary role in the organization, lending their name or support to it or assisting in fundraising. Transparency and accountability are best achieved in today's era by encouraging contributors to make donations to such organizations on-line through a website or where that is not possible through a cheque made payable directly to the organization. Cash should never be accepted.

Rule No. 4

<u>Confidential Information</u>:

Confidential Information includes information in the possession of, or received in confidence by, the City of Mississauga that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), or any other legislation.

MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *Municipal Act, 2001* allows information that concerns personnel, labour relations, litigation, property acquisitions and security of the property of the City or a local board, and matters authorized in other legislation including MFIPPA, to remain confidential. For the purposes of the *Code of Conduct*, "confidential information" includes this type of information.

1. As elected officials, Members of Council will receive highly sensitive and confidential information concerning residents who need their assistance. This is consistent with the nature of the Members' duties. In accordance with the City's *Elected Officials' Records* policy, Councillor constituency records are at all times under the control of the Member and are not subject to any municipal disclosure requirements.

2. The following are examples of the types of information that a Member of Council 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)

3. Where it is clear that a communication was not made in a confidential manner (i.e. copied to others, or made in the presence of others) or the manner of communication undermines the validity of labelling it "Confidential", such communication will not be given any higher level of confidentiality than any other communication. The words "Privilege", "Confidential" or "Private" will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.

4. Under the *Council Procedure By-law*, a matter that has been discussed at an *in-camera* (closed) meeting remains confidential, until such time as a condition renders the matter public.

    a. No Member shall disclose the content of any such matter, or the substance of deliberations, of the *in-camera* meeting until the Council or Committee discusses the information at a meeting that is open to the public or releases the information to the public.

    b. 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 where required by law or authorized by Council to do so.

    c. No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. For example, no Member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.

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

Rule No. 5

Use of City Staff, Property, Services and Other Resources:

1. No Member shall use for personal purposes any City staff services, property, equipment, services, supplies, websites, webboards, or other City-owned materials, other than for purposes connected with the discharge of City duties.

2. No Member shall obtain personal financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations or any other item capable of being patented. Members acknowledge and do not dispute that all such property remains exclusively that of the City of Mississauga.

3. No Member shall use information gained in the execution of his or her duties that is not available to the general public, for any purposes other than his or her official duties.

Commentary

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their City duties as public officials. While most of this property is provided within the confines of their office, much of it is transportable or may be provided for home use, given the nature of the demands placed on Members in carrying out their duties and in recognition of the fact that the City does not provide constituency offices to Members of Council. Members are held to a higher standard of behaviour and conduct and therefore should not use such property for any purpose other than for carrying out their official duties. For clarity, this Rule is intended to prohibit the use of City resources for purposes such as running a home business. It is not intended to prohibit occasional personal use, but it should be subject to practical limitations.

Careful attention should be given to the provisions of the City's *Elected Officials' Expenses* policy which identifies approvable allowable expenses. During election campaigns, the provisions of rules 6 and 7 will apply.

4. No Member shall use the services of City staff, or make requests for document or information from City staff, unless such information is required for the purpose of carrying out their duties as public officials.

Rule No. 6

Election Campaigns:

1. Members are required to follow the provisions of the *Municipal Elections Act, 1996* and Members are accountable under the provisions of that statute.

Commentary

Staff should not interpret or provide advice to Members regarding the requirements placed on candidates for municipal office.

2. No Member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and individual websites linked through the City's website) for any election campaign or campaign-related activities.

    a) Despite the foregoing, Members may choose to use their cell phone or other such equipment and may do so by advising the Integrity Commissioner in writing in advance and by reimbursing the City for all related expenses associated with such use.

    b) Despite the foregoing, Members are allowed to place materials on the City's election website, http://www2.mississauga.ca/vote2010/, that is available and authorized for use by all candidates for municipal and school board office.

3. In a municipal election year, commencing on June 30th until the date of the election, Members may not publish Councillor newsletters or distribute them in municipal facilities. All newsletters distributed through the mail must be post-marked by no later than June 30th in an election year.

4. In a municipal election year, commencing on Nomination Day until the date of the election, no Member or other candidate for elected office, may book directly or indirectly, any facility for any purpose that might be perceived as an election campaign purpose if that facility is being used as a polling station.

Commentary

The restriction on booking facilities ensures election-related functions, or those that could appear to be election-related, will not occur at any time there is an advance or regular poll at the facility. The need to set up in advance means that election night parties cannot be held in the same facilities that polling stations are located in. Members should not authorize any event that could be perceived as the City providing them with an advantage over other candidates.

It is the personal responsibility of Members to ensure that any use of facilities or the services of municipal staff are carried out in accordance with applicable legislation. Staff are not responsible for monitoring and advising Members or any other candidates, in this regard.

5. Members shall be respectful of the role of the City Clerk in managing the municipal election process and meeting all statutory requirements in respect thereof. The Clerk must ensure all candidates are treated equally and no candidate for elected office should interfere with how the Clerk carries out these duties.

Commentary

The *Municipal Elections Act, 1996* clearly states that it is the responsibility of the City Clerk to conduct the election and take all necessary actions to ensure municipal elections meet all statutory requirements.

6. No Members shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the City.

7. The Integrity Commissioner may at any time be consulted with regard to complying with any part of Rule 6 and in particular may rule on whether any activity by staff in a Councillor's office during an election year is prohibited election work or permitted activity sufficiently unrelated to the election.

Rule No. 7

Improper Use of Influence:

1. No member shall use the influence of his or her office for any purpose other than for the exercise of his/her official duties.

2. Members shall not contact members of any tribunal regarding any matter before it, such as the Committee of Adjustment, which is charged with making independent decisions and whose members have been appointed by Council. Members may infrequently attend meetings but shall not speak to any tribunal members about an application nor make representations to any such tribunal. However, members may send a letter or E-mail addressed to the Secretary of such tribunal expressing the views of the member on behalf of the community. Members shall not make representations of any kind to other tribunals such as the OMB but may request Council to instruct the City Solicitor to appear in a case before such tribunal.

Commentary

Examples of prohibited conduct are the use of one's status as a Member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's Family Member, or friends. This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of a future advantage through a Member's supposed influence within Council in return for present actions or inaction.

Contact with members of tribunals appointed by Council on any case might be viewed as attempts to intimidate the tribunal member. Council is usually a party to OMB hearings and individual members must accept the position of Council. Exceptions would be where the Councillor is directly impacted respecting his or her office such as a ward boundary OMB appeal or in a matter before the Election Campaign Finance Committee. If in doubt whether a member should contact members or participate in any such hearings or meetings, the Integrity Commissioner may be consulted.

3. Pursuant to corporate policy, the City Manager and Chief Administrative Officer directs City Commissioners, who in turn direct City staff. City Council and not individual Members of Council appropriately give direction to the City administration.

Rule No. 8

Business Relations:

1. No Member shall allow the prospect of his/her future employment by a person or entity to affect the performance of his/her duties to the City, detrimentally or otherwise.

2. No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company whose shares are publically traded and who is regularly in the business of lending money, such as a credit union.

3. No Member shall act as a paid agent before Council or a committee of Council or any agency, board or committee of the City.

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

Rule No. 9

Conduct of Council at Committee Meetings and When Representing the City:

1. Members shall conduct themselves at Council and committee meetings with decorum in accordance with the provisions of the *Council Procedure By-law*.

Commentary

A Member recognizes the importance of cooperation and strives to create an atmosphere during Council and committee meetings that is conducive to solving the issues before Council, listening to various points of view and using respectful language and behaviour in relation to all of those in attendance.

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

Commentary

Various statutes, the *Council Procedure By-law* and decisions by courts and quasi-judicial tribunals including the Information and Privacy Commission, establish when City Council can discuss issues in closed session. Transparency requires that Council apply these rules narrowly so as to best ensure that decisions are held in public session as often as possible. Unless prohibited by law, Members should clearly identify to the public how a decision was reached and the rationale for so doing.

3. Members shall make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the City or by virtue of being an elected official.

Commentary

Individual Members are appointed to committees, agencies, boards and commissions based on their various backgrounds and their ability to contribute to matters before them, bringing their expertise and experience.

4. Given that Council and committee meetings are scheduled far in advance to accommodate the many activities of elected office of a Member, to participate diligently means that a Member shall not be absent from Council or committee meetings, or from those of agencies, boards and commissions to which they are appointed by virtue of their status as a Member, without reasonable justification (for example, illness of the Member, family circumstance, Regional business) for more than three consecutive scheduled meetings or on a regular basis.

Rule No. 10

Media Communications:

1. Members of Council will accurately communicate the decisions of Mississauga City Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.

2. Members of Council will keep confidential information confidential, until such time as the matter can properly be made public.

Commentary

A Member may state that he/she did not support a decision, or voted against the decision. A Member should refrain from making disparaging comments about other Members of Council or about Council's processes and decisions.

When communicating with the media, a Member should at all times refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member of Council.

While openness in government is critical, governments also must respect confidentiality when a matter must remain, at least for a period of time, confidential. Breaches of confidentiality by Members erodes public confidence.

Rule No. 11

Respect for the City and its By-laws and Policies:

1. Members shall encourage public respect for the City and its by-laws.

Commentary

A Councillor must not encourage disobedience of a City by-law in responding to a member of the public, as this undermines confidence in the City and in the Rule of Law.

2. Members shall conduct themselves with appropriate decorum at all times.

Commentary

As leaders in the community, Members are held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary.

Rule No. 12

Respectful Workplace Policy:

1. Members are governed by the City's *Respectful Workplace* policy. All Members 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.

2. Upon receipt of a complaint that relates to the City's *Respectful Workplace* policy and involves a Member, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources who will refer it for an independent investigation.

Commentary

It is the policy of the City of Mississauga that all persons be treated fairly in the workplace in an environment free of discrimination or personal and sexual harassment.

The City of Mississauga' *Respectful Workplace* policy ensures a safe and respectful workplace environment and provides for the appropriate management of any occurrences of harassment and discrimination as those terms are defined in the policy.

The City of Mississauga's *Respectful Workplace* policy applies equally to members of staff and Members of Council. It will provide guidance to an independent investigator when a complaint is received involving a Member.

3. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall make a determination on the application of this *Code of Conduct* and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to City Council as per the normal procedure respecting such matters.

4. The *Ontario Human Rights Code* applies in addition to the City's *Respectful Workplace* policy.

Rule No. 13

Conduct Respecting Staff:

1. 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.

2. No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.

3. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.

4. No Member shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the City.

Commentary

Under the direction of the City Manager, staff serve the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Only Council as a whole has the authority to approve budget, policy, committee processes and other matters. Accordingly, Members shall direct requests outside of Council-approved budget, process or policy, to the Budget Committee or directly to Council.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as standing committee members and as chairs of standing committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council. Staff are expected to provide information to Members that they are entitled to. City staff are accountable to the City Manager who is accountable to City Council. Sometimes the line between staff duties and activities that are political in nature is not clear. Members of Council must respect the difference between the two in making requests of staff.

Members of Council should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalty of persons in power, or their personal opinions.

The City's *Respectful Workplace* policy applies to Members of Council. Staff and Members of Council are all entitled to be treated with respect and dignity in the workplace.

5. It is inappropriate for a Member to attempt to influence staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application. It is also inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager. Any such attempts should be reported to the Integrity Commissioner.

Rule No. 14

Employment of Council Relatives/Family Members:

1. No Member shall attempt to influence the outcome, or to influence any City employee to hire or promote a Family Member.

2. No Members shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member.

3. No Member shall supervise a Family Member, or be placed in a position of influence over a Family Member.

4. No Member shall attempt to use a family relationship for his or her personal benefit or gain.

5. Every Member shall adhere to the City's *Candidate Selection Process* policy.

Commentary

If a Family Member of a Councillor is an applicant for employment with the City or is a candidate for promotion or transfer, the Family Member will proceed through the usual selection process pursuant to the City's hiring policies, with no special consideration.

Rule No. 15

Failure to Adhere to Council Policies and Procedures:

1. Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

Commentary

Members of Council are required to observe the policies and procedures established by City Council at all times, and are directed to pay special attention to, and comply strictly with, the *Council Procedure By-law* and the *Elected Officials' Expenses* policy. In exceptional circumstances, a Member may request Council grant an exemption from any policy.

Rule No. 16

Reprisals and Obstruction:

1. It is a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities.

2. No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the *Code of Conduct*, or against a person who provides information to the Integrity Commissioner in any investigation.

3. It is also a violation of the *Code of Conduct* to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the *Code of Conduct*.

Commentary

Members of Council should respect the integrity of the *Code of Conduct* and investigations conducted under it.

Rule No. 17

<u>Acting on Advice of Integrity Commissioner</u>:

1. 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.

COUNCIL CODE OF CONDUCT COMPLAINT PROTOCOL

PART A: INFORMAL COMPLAINT PROCEDURE

Any person or a representative of an organization who has identified or witnessed behaviour or an activity by a member of Council that they believe is in contravention of the *Council Code of Conduct* (the "Code") may wish to address the prohibited behaviour or activity themselves as follows:

(1) advise the member that the behaviour or activity contravenes the Code;
(2) 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) if applicable, confirm to the member your satisfaction with the response of the member; or, if applicable, advise the member of your dissatisfaction with the response; and
(5) 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.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. 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 must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE:

Integrity Commissioner Requests for Inquiries Sec. 1

1. (1) A request for an investigation of a complaint that a member has contravened the Code of Conduct (the "complaint") shall be sent directly to the Integrity Commissioner by mail, E-mail, fax or courier in the form attached to this Protocol as Schedule "A".

(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.

For example, the complaint should include the name of the alleged violator, the provision of the Code 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) For any Complaint received from and after August 1 in any municipal election year, the Integrity Commissioner shall stay any investigation required by such complaint until the day after the inaugural meeting of the new Council and until then, shall keep such complaint confidential.

Initial Classification by Integrity Commissioner Sec. 2

2. (1) Upon receipt of the request, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or other Council policies as described in subsection (3).

(2) If the complaint is not, on its face, a complaint with respect to non- compliance with the Code or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall advise the complainant in writing as follows:

(a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, 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;

(b) if the complaint on its face is with respect to non- compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the City Clerk;

(c) if the complaint on its face, is with respect to non- compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and

(d) 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.

(e) If the Integrity Commissioner receives a complaint during a municipal election year respecting a member who is seeking re-election and he is of the opinion that it is politically motivated, he may stay the investigation until after the new Council takes office or dismiss it if he concludes it is specious.

(3) The Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner.

(4) The Integrity Commissioner shall report annually to Council on complaints not within the jurisdiction of the Integrity Commissioner, but, where possible, shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation Secs. 3 – 9

3. (1) The Integrity Commissioner is responsible for performing the duties set out in this Protocol independently, and shall report directly to Council in respect of all such matters. The Integrity Commissioner shall file an annual report to City Council respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of the Integrity Commissioner.

(2) If the Integrity Commissioner is of the opinion that a complaint 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.

(3) Other than in exceptional circumstances, the Integrity Commissioner will not report to Council on any complaint described in subsection (2) except as part of an annual or other periodic report.

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.

(2) Upon receipt of a formal complaint pursuant to the Code, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation or alternatively to exercise the powers of a Commission under Parts I and II of the Public Inquiries Act, as contemplated by Subsection 223.4(2) of the Act.

(3) If the Integrity Commissioner elects to conduct an inquiry under the Public Inquiries Act, he/she shall report to Council and seek instructions before

proceeding, setting out the reasons for the investigation and providing an estimate of the expected cost and time that the investigation will require.

(4) 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.

(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 223.4(3) and (4) of the Municipal Act, and may enter any City work location relevant to the complaint for the purposes of investigation and settlement.

(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.

(4) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

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 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 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.

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 process the report for the next meeting of Council.

Council Review Sec. 9

9. (1) Council 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 may vary a recommendation that imposes a penalty, subject to Section 223.4, subsection (5) of the Municipal Act, but shall not refer the recommendation other than back to the Integrity Commissioner.

(3) Council can terminate the Integrity Commissioner only by a two-thirds vote of all members.

(4) Upon receipt of recommendations from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either of two penalties:

(a) a reprimand; or
(b) suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days

(4) The Integrity Commissioner may also recommend that Council take the following actions:

(a) removal from membership of a committee;
(b) removal as chair of a committee;
(c) repayment or reimbursement of monies received;
(d) return of property or reimbursement of its value;

(e) a written and/or verbal request for an apology to Council, the complainant, or both.

Confidentiality; Sec 10

10. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, 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.

(3) All reports from the Integrity Commissioner to Council 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 on whether a member 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.

Schedule "A"

I _____ hereby request the Integrity Commissioner for the City of Mississauga to conduct an inquiry pursuant to Part V.1 of the *Municipal Act, 2001* about whether or not the following member(s) of the City Council has (have) contravened the Council Code of Conduct applicable to the member(s):

_____

I have reasonable and probable grounds to believe that the above member(s) has (have) contravened the Council Code of Conduct by reason of the following (please insert date, time and location of conduct, including the Rules contravened, together with particulars and names of all persons involved, and of all witnesses, and information as to how they can be reached, (if more space is required, please attach additional pages as needed):

_____

_____

_____

_____

_____

_____

_____

_____

I hereby request the Integrity Commissioner to conduct an inquiry pursuant to the provisions of section 223.4 of the *Municipal Act, 2001* with respect to the above conduct.

Attached are copies of documents and records relevant to the requested inquiry. Please mail, fax mail, fax, e-mail, or otherwise deliver this request to:

Robert J. Swayze
Integrity Commissioner
City of Mississauga
20736 Mississauga Road
Caledon, Ontario
L7K 1M7

Phone: 519 942 0070
Fax: 519 942 1233
E-mail: robert.swayze@sympatico.ca

Date: _____

_____
(Signature of Requester)

Name: _____

Address:
Telephone: _____

Fax: _____

Cell: _____

E-mail: _____