



Council Code of Conduct

(DRAFT – AUGUST 24, 2018)

Effective Date: TBD

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1.0 Preamble and Principles

- 1.1 The Council of the Town of Richmond Hill is committed to achieving the highest standards of conduct by its Members which is essential to maintaining and ensuring public trust and confidence in Council and Richmond Hill's decision making and operations.
- 1.2 The principles of this Code are:
 - (a) Members will act in an accountable and responsible manner with integrity and fairness in the performance of their duties;
 - (b) Members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
 - (c) Members are expected to perform their duties and arrange their private affairs in a manner that promotes public confidence and which will bear close public scrutiny; and
 - (d) Members 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 Council of the Town.

2.0 Purpose

- 2.1 The purpose of this Code is:
 - (a) to set out clear expectations of the behaviour of Members in accordance with the principles of the Code;
 - (b) to provide information to the public as to the behaviour they can expect from their Members;
 - (c) to provide guidance to Members in the conduct of their duties as elected officials; and
 - (d) to provide a mechanism for responding to alleged breaches of the Code.
- 2.2 The clear statement of these standards and expectations should serve to enhance the public's confidence that the elected officials of the Town of Richmond Hill will

operate with integrity and fairness to ensure responsible and accountable conduct by the Member.

- 2.3 The Council Code of Conduct serves to supplement existing legislation and other existing Town by-laws and all policies that govern the conduct of Members, including but not limited to:

- (a) *Municipal Act, 2001*;
- (b) *Municipal Conflict of Interest Act*;
- (c) *Municipal Elections Act*;
- (d) *Municipal Freedom of Information and Protection of Privacy Act*;
- (e) *Occupational Health and Safety Act*;
- (f) *Human Rights Code*; and
- (g) *Criminal Code of Canada*.

3.0 Definitions

- 3.1 For the purposes of this Code,

- (a) “abusive conduct” means unwarranted and unjustified aggressive and/or provoking comment(s), threat(s), purposeful and persistent ignoring of staff, coercion, persistent criticism or condemnation, public humiliation and act(s) of physical or verbal aggression. Such comments or conduct may: (a) be methodical, planned, sudden, irrational or unpredictable; and/or (b) include the improper use of power and/or authority inherent in a position held by an individual;
- (b) “Clerk” means the Clerk of Richmond Hill, or his/her designate;
- (c) “Code” means this Council Code of Conduct, including any appendices to this Code of Conduct, established by Council pursuant to the *Municipal Act, 2001*;
- (d) “committee” means any advisory committee, subcommittee or similar entity of which at least 50 per cent of the members of that committee are also Council Members;
- (e) “complaint” means an alleged contravention of the Code, whether made through an informal complaint process or through the filing of a formal written complaint;

- (f) “complainant” means a person who has either made an informal complaint or who has filed a formal complaint in accordance with the procedures set out in this Code;
- (g) “confidential information” means any information in the possession of or received in confidence by the Member that Richmond Hill is prohibited from disclosing or would generally refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation, including, but not limited to:
 - (i) Any information provided to the member in any written or verbal form that is a type of information as defined in section 239(2) of the *Municipal Act, 2001*, as may be amended from time to time, and as set out in Appendix A.
 - (ii) Without limiting the generality of paragraph 3.1(g)(i), information that is received, disclosed or discussed in any verbal or written form pertaining to a meeting that is closed to the public pursuant to subsection 239(2) of the *Municipal Act, 2001*;
 - (iii) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*;
 - (iv) any information and/or advice provided directly or indirectly by any solicitor acting on behalf of Richmond Hill, whether internal or external;
 - (v) any information that is subject to solicitor-client privilege or that concerns litigation or potential litigation;
 - (vi) information that concerns any confidential matters pertaining to personnel, labour relations, or items under negotiation;
 - (vii) price schedules in contract tenders and information about suppliers provided in contract tender or requests for information, quotation or proposal submissions, if such information is given in confidence, implicitly or explicitly;
 - (viii) sources of complaints where the identity of the complainant is given in confidence;
 - (ix) information circulated to Members and marked "confidential"; or
 - (x) any information lawfully determined by Council to be confidential or required to remain or be kept confidential by legislation or order;
- (h) “Council” means the Council of the Town of Richmond Hill;
- (i) “discrimination” means differential treatment, including distinction, exclusion or preference, of an individual or group of individuals, whether intentional or unintentional, which is based on the prohibited grounds in the *Human Rights Code*;

- (j) “gifts and benefits” means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment that are provided to a Member that could be seen to be connected directly or indirectly to the performance of the Member’s duties;
- (k) “hospitality” means instances where there is entertainment of or by outside parties for the furtherance of municipal business;
- (l) “Human Rights Code” means the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended;
- (m) “Integrity Commissioner” means the person appointed by Council pursuant to section 223.3 of the *Municipal Act, 2001*;
- (n) “Integrity Commissioner Procedures” means:
 - (i) The rights, procedures, rules, responsibilities and/or duties assigned to the Integrity Commissioner in respect to the Code as set out in the *Municipal Act, 2001*, as may be amended from time to time; and
 - (ii) the procedure approved by Council that, among other things:
 - 1. establishes general practices or procedures to be observed by the Integrity Commissioner in fulfilling his or her other duties; and
 - 2. the procedures to be followed in making a complaint;
- (o) “Member” means a person elected or appointed to an office on Council, including the Mayor, a Regional & Local Councillor and a Local Ward Councillor;
- (p) “Municipal Act” means the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;
- (q) “Municipal Conflict of Interest Act” means the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50, as amended;
- (r) “Municipal Elections Act” means the *Municipal Elections Act, 1996*, S.O. 1996, c.32, as amended;
- (s) “Municipal Freedom of Information and Protection of Privacy Act” means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended;
- (t) “Occupational Health and Safety Act” means the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1, as amended;
- (u) “office” means the authority and duties attached to the position of being an elected or appointed Member;

- (v) “Procedure By-law” means By-law No. 74-12, being a by-law to govern the proceedings of Council and its committees, or any successor by-law adopted by Council pursuant to subsection 238(2) of the Municipal Act;
- (w) “prohibited grounds” means race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or disability, or any other prohibited grounds set out in the Human Rights Code;
- (x) “Richmond Hill” means the Corporation of the Town of Richmond Hill;
- (y) “Richmond Hill Property” means items, services or resources which are the property of Richmond Hill including but not limited to: all real and personal property, materials, vehicles, equipment, services, Staff, documents, facilities, technology, Richmond Hill-developed computer programs or technological innovations, databases, intellectual property and supplies;
- (z) “social media” means web-based applications and on-line forums that allow users to interact, share and publish content such as text, links, photos, audio and video;
- (aa) “Staff” means all full-time and part-time persons hired by Richmond Hill including the Chief Administrative Officer, Commissioners, Directors, Managers, Supervisors, Salaried Employees’ Association Staff, Members of C.U.P.E. Local 905, members of Richmond Hill Professional Fire Fighters Association, Local 1957, Administrative Staff, contract and temporary employees, students, secondments, co-op placement Staff, volunteers, and hired contractors;
- (bb) “Workplace Harassment” means
 - (i) engaging in a course of vexatious comment or conduct against Staff in a workplace that is known or ought reasonably to be known to be unwelcome, or
 - (ii) workplace sexual harassment;
- (cc) “Workplace Sexual Harassment” means
 - (i) engaging in a course of vexatious comment or conduct against Staff in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
 - (ii) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the Staff and the person knows or ought reasonably to know that the solicitation or advance is unwelcome; and

- (dd) “workplace violence” means
 - (i) the use of physical force by a person against an employee, in a workplace, that causes or could cause physical injury to the employee;
 - (ii) an attempt to exercise physical force against an employee, in a workplace that could cause physical injury to the employee; or
 - (iii) a statement or behaviour that is reasonable for an employee to interpret as a threat to exercise physical force against the employee, in a workplace, that could cause physical injury to the employee.

4.0 Application and Responsibilities

4.1 This Code applies to all Members.

4.2 A Member shall:

- (a) observe and comply with the principles of the Code;
- (b) observe and comply with every provision of the Code, as well as all other policies and procedures affecting the Member, acting in his or her capacity as a Member;
- (c) respect the integrity of the Code and inquiries and investigations conducted under it;
- (d) co-operate in every way possible in securing compliance with the application and enforcement of the Code;
- (e) encourage the public, prospective contractors and lobbyists, and their colleagues to abide by Richmond Hill by-laws and policies; or
- (f) affirm the respect and integrity in the democratic decision-making processes of Council.

4.3 No Member shall:

- (a) fail to observe and comply with the principles of the Code;
- (b) fail to observe and comply with every provision of the Code, as well as all other policies and procedures affecting the Member, acting in his or her capacity as a Member;
- (c) fail to respect the integrity of the Code and inquiries and investigations conducted under it;

- (d) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person;
- (e) obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of the Code, in the carrying out of such responsibilities, or pursuing any such objective; or
- (f) use the influence of their office for any purpose other than for the lawful exercise of their official duties for municipal purposes.

- 4.4 To ensure the highest standards of conduct by Council and Members, the Code is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein.

5.0 Acceptance of Gifts and Benefits

- 5.1 Members must make decisions based on an impartial and objective assessment of each situation, free from the influence of gifts, hospitality or benefits. Members must avoid both the reality and appearance of impropriety with organizations and people with whom they deal.
- 5.2 No Member shall accept a gift, hospitality or benefit that is connected directly or indirectly with the performance of his or her duties of office unless permitted by the exceptions listed below. For these purposes, a gift, hospitality or benefit paid to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly with the performance of the Member's duties of office is deemed to be a gift to that Member.
- 5.3 It is recognized that the extension and acceptance of forms of hospitality (including invitations to events, outings, engagements, performances, etc.) is within the normal official duties of a Member, provided that:
- (a) Members do not allow themselves to reach a position whereby they might be, or be deemed by others to have been, influenced in making a decision as a consequence of the offering or acceptance of such hospitality;
 - (b) It serves a legitimate business purpose related to the responsibilities of the Member;
 - (c) The person extending the invitation or a representative of the organization is in attendance; and
 - (d) The value and frequency are reasonable.

- 5.4 Members are not precluded from accepting:
- (a) Personal gifts, benefits, rewards, commissions or advantages from any person or organization which are wholly unconnected with the performance of official duties;
 - (b) Political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
 - (c) Services provided without compensation by persons volunteering their time;
 - (d) Invitations from charity or not-for-profit organization to attend their events;
 - (e) Food and beverages at banquets, receptions, ceremonies or similar events;
 - (f) A memento received by a Member at a function honouring the Member;
 - (g) A memento received as a result of being a speaker, participant or representative of Richmond Hill at an event;
 - (h) Gifts or benefits received as an incident of social protocol, customs or social obligations that normally accompany the performance of official duties; and
 - (i) Food, lodging, transportation and entertainment provided by other levels of government or by other local governments, boards or commissions or the government of a foreign country.
- 5.5 In the case of categories identified in sections 5.4 (e), (f), (g), (h), and (i), if the value of the gift or benefit exceeds \$350 or if the total value received from any one source during the calendar year exceeds \$500, the Member shall within 30 days of receipt of the gift or benefit, or reaching the annual limit, complete a Disclosure Statement (the form of which shall be approved by the Clerk) and submit it to the Clerk.
- 5.6 The Disclosure Statement shall include:
- (a) The nature of the gift or benefit;
 - (b) Its source and date of receipt;
 - (c) The circumstances under which it was received; and
 - (d) Its estimated value.
- 5.7 Disclosure Statements are a matter of public record, and shall be maintained by the Clerk in accordance with any records retention rules established by Richmond Hill.

- 5.8 Members are responsible for tracking and monitoring any gift or benefit received during the calendar year to ensure compliance with the reporting requirements in section 5.5 of the Code.
- 5.9 Members shall return any gifts or benefits, or not accept hospitality, which does not comply with these guidelines, along with an explanation of why the gifts, benefits or hospitality cannot be accepted.

6.0 Confidential Information

- 6.1 Members shall not disclose or release by any means, including social media, to any person either in oral or written form any confidential information acquired by virtue of their office except when required by law to do so.
- 6.2 Members have a duty to hold in strict confidence all information concerning matters dealt with in meetings closed to the public in accordance with the Municipal Act or any other Act.
- 6.3 All information, documentation or deliberation received, reviewed or taken in closed session of Council and its committees is confidential until the matter ceases to be confidential as determined by Council.
- 6.4 No Member shall:
 - (a) obtain access, or attempt to gain access, to confidential information in the custody or control of Richmond Hill except in accordance with the Municipal Freedom of Information and Protection of Privacy Act;
 - (b) disclose, release or publish by any means, including social media, any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
 - (c) provide to any other person to disclose, release, or publish any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
 - (d) use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body; or
 - (e) disclose or discuss, through written, electronic or verbal communication, to any individual or corporate third party, any information that has been or will be discussed at a closed session meeting of Council or a committee until such time that Council or a committee has determined or has been advised by Staff that the matter, or any part of the matter, can be made public subject to review by the head or designate under the Municipal Freedom of Information and Protection of Privacy Act or if directed to do so by a court.

- 6.5 When a Member ceases to be a Member the duty to not disclose or release any confidential information acquired by virtue of his or her office except when required by law to do so continues.

7.0 Council, Staff and Public Relations

- 7.1 Members shall accurately communicate the decisions of Council even if they disagree with the majority decision of Council, and by doing so affirm the respect and integrity in the decision-making processes of Council.
- 7.2 Members shall respect that Staff have an obligation to act impartially, and in accordance with all Richmond Hill policies including the Employee Code of Conduct.
- 7.3 It is acknowledged that Staff have an obligation to recognize that Members have been duly elected to serve the residents of Richmond Hill and respect the role of Council in directing the actions of Richmond Hill.
- 7.4 Members shall:
- (a) acknowledge and respect the fact that Staff work for Richmond Hill as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate objectives;
 - (b) acknowledge and respect the fact that Staff carry out directions of Council as a whole and administer the policies of Richmond Hill, and are required to do so without any undue influence from any individual Member or group of Members; and
 - (c) respect the administrative structure and direct any Staff performance concerns through appropriate supervisory Staff.
- 7.5 No Member shall:
- (a) publicly criticize individual Staff in a way that casts aspersions on their professional competence and credibility;
 - (b) compel Staff to engage in partisan political activities, or subject Staff to threat(s) or discrimination for refusing to engage in such activities; or
 - (c) use their authority or influence to threaten, intimidate, or coerce Staff or improperly interfere in the lawful exercise of the duties of Staff.
- 7.6 The content of any Member's communications, regardless of method of communication, shall be accurate, honest and respectful of other persons, including other Members, Staff and the public.

- 7.7 In the use of social media, Members shall adhere to any Richmond Hill policies and guidelines regarding social media use.
- 7.8 When using social media, Members shall not:
- (a) attempt to cover, disguise or mislead as to their identity or status as an elected representative of Richmond Hill;
 - (b) use social media in any way that would violate Richmond Hill's Respect in the Workplace Policy, and any similar policy or procedure, made pursuant to the Occupational Health and Safety Act and the Human Rights Code; or
 - (c) use social media to publish anything that is dishonest, untrue, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.

8.0 Use of Municipal Property

- 8.1 Members shall not use any Richmond Hill Property other than for purposes connected with the discharge of their official duties or associated community activities having the sanction of Council and in compliance with all applicable Richmond Hill policies.
- 8.2 Members shall not obtain financial gain or advantage from the use of Richmond Hill Property while an elected official or thereafter. All such Richmond Hill Property remains the exclusive property of Richmond Hill.
- 8.3 Without limiting the generality of any of the foregoing provisions, Members shall not use Richmond Hill Property for any type of political activity as outlined in the "Use of Corporate Resources for Election Campaign Purposes Policy" (or any successor policy adopted in compliance with the Municipal Elections Act).

9.0 Adherence to Richmond Hill By-laws, Policies and Procedures

- 9.1 Members shall conduct themselves with decorum at all Council and committee meetings in accordance with the provisions of the Procedure By-law.
- 9.2 Members are required to adhere to all other by-laws, policies, procedures and rules (collectively "policies") that govern the behaviour of Members, including, but not limited to, those policies set out in Appendix B.
- 9.3 Members are required to endeavour to make themselves aware of any by-laws, policies, and procedures applying to them.

- 9.4 Notwithstanding subsections 9.2 and 9.3, a Member may request that Council grant an exception from a policy in exceptional circumstances.
- 9.5 The Clerk is authorized to amend Appendix B, by adding and deleting the titles of policies applying to Members.

10.0 Respect in the Workplace

- 10.1 Without limiting the generality of Section 7 and Section 9 of the Code, Members shall be governed by Richmond Hill's Respect in the Workplace Policy, and any similar policy or procedure, made pursuant to the Occupational Health and Safety Act and the Human Rights Code.
- 10.2 Members have a duty to treat members of the public, one another and Staff appropriately and without engaging in workplace harassment, workplace sexual harassment, abusive conduct, discrimination or workplace violence as further set out in Richmond Hill's Respect in the Workplace Policy.
- 10.3 Members have a further responsibility to support a workplace within Richmond Hill that is free of workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence.

11.0 Compliance

- 11.1 All Members shall be aware of and comply with the Code.
- 11.2 It is a contravention of the Code for a Member to obstruct, in any way whatsoever, the Integrity Commissioner in the carrying out of his or her responsibilities, by, for example, providing inaccurate or misleading information to the Integrity Commissioner, refusing to answer inquiries or participate in the investigation process, or destroying documents or erasing electronic records (including electronic communications).
- 11.3 Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is prohibited and a contravention of the Code.
- 11.4 A Member may request that the Integrity Commissioner provide that Member with advice respecting his/her obligations under the Code, in accordance with the provisions of the Municipal Act and the Integrity Commissioner Procedures.
- 11.5 To aid Members in complying with the Code, the Clerk in consultation with the Integrity Commissioner, may:
 - (a) create an annotated version of the Code;

- (b) create a version of the Code that includes commentary on the various provisions of the Code; and/or
- (c) create other such material as deemed appropriate by the Commissioner.

11.6 Any documentation created in accordance with section 11.5 of the Code is illustrative only and not exhaustive.

12.0 Enforcement

- 12.1 Any individual, including members of the public, Staff, and another Member, who has reasonable grounds to believe that a Member has contravened the Code, may proceed with a complaint pursuant to the Integrity Commissioner Procedures and in accordance with the Municipal Act.
- 12.2 Unless otherwise provided for in the Integrity Commissioner Procedures, complaints pursuant to the Code must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurred. No action will be taken on a complaint received beyond these deadlines, except as provided for in subsection 12.3 of the Code.
- 12.3 Where a complaint is an allegation that a Member has contravened the “Respect in the Workplace” provisions of the Code, as set out in section 10 of the Code, the timeframes for submission of a complaint shall be in accordance with the provision of the Respect in the Workplace policy and procedures.
- 12.4 In a regular election year, during the period that begins on Nomination Day, as defined in section 31 of the Municipal Elections Act, and ending on Voting Day, as set out in section 5 of the Municipal Elections Act,
 - (a) no complaint or request for inquiry, including a complaint or request for inquiry in respect to the “Respect in the Workplace” provisions in section 10 of the Code, may be filed with the Integrity Commissioner; and
 - (b) the Integrity Commissioner shall not report to Council on whether a Member has contravened the Code.
- 12.5 The Integrity Commissioner shall terminate any inquiry or any investigation (formal or informal) that has not been completed by Nomination Day, as defined in section 31 of the Municipal Elections Act, of a regular election year.
- 12.6 If the Integrity Commissioner has terminated any inquiry or any investigation (formal or informal) under subsection 12.5 of the Code, the Integrity Commissioner shall not commence another inquiry or any investigation (formal or informal) of the same matter unless, within six weeks of Voting Day the person who requested the inquiry, or the Member (including a former Member) who was the subject of the

inquiry, makes a written request to the Integrity Commissioner to commence another inquiry on that same matter.

- 12.7 Notwithstanding anything in subsections 12.4 and 12.5 of the Code to the contrary, any complaint about a Member pursuant to Richmond Hill's Respect in the Workplace Policy may be received by Richmond Hill's Director of Human Resources during the election period, and may be referred to the Integrity Commissioner by the Director of Human Resources within six weeks of Voting Day.
- 12.8 If the Integrity Commissioner finds that a Member has contravened the Code, the Integrity Commissioner may recommend and Council may impose one of the following penalties on that Member:
- (a) A reprimand; or
 - (b) The suspension of the remuneration paid to that Member for a period of up to 90 days.
- 12.9 In a regular election year, during the period that begins on Nomination Day, as defined in section 31 of the Municipal Elections Act, and ending on Voting Day, as set out in section 5 of the Municipal Elections Act, Council shall not consider the imposition of a penalty, nor impose a penalty on a Member who has been found to have contravened the Code.

Appendix A

Subsection 239(2) of the Municipal Act

239 (2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.
- (h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
- (i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- (k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

Appendix B

List of Policies Applying to Members

1. Respect in the Workplace Policy;
2. Council Expense Policy;
3. Use of Corporate Resources for Election Campaign Purposes Policy;
4. Use of Assigning & Use of Wireless Communication Devices Policy; and
5. Personal Computing Standards Policy.