

Town of Richmond Hill Council Code of Conduct

Subject: Council Code of Conduct
Effective Date: November 1, 2010
Date of Last Revision: November 12, 2012

1.0 Preamble

The Council of the Town of Richmond Hill is committed to achieving the highest standards of conduct in its actions which is essential to maintaining and ensuring public trust and confidence in the Town's decision making and operations. Members of Council of the Town of Richmond Hill will act in an accountable and responsible manner with integrity and fairness in its entire decision making processes.

2.0 Purpose

The Town of Richmond Hill Council Code of Conduct serves four main purposes:

- To set out clear expectations of the behaviour of members of Council;
- To provide information to the public as to the behaviour they can expect from their Council;
- To provide guidance to members of Council in the conduct of their duties as elected officials; and
- To provide a mechanism for responding to alleged breaches of the Code.

The Town of Richmond Hill Council Code of Conduct contains guidelines which supplement existing provincial legislation and regulations regarding the behaviour of elected officials including the *Municipal Conflict of Interest Act*, the *Municipal Act*, the *Municipal Elections Act* and the *Municipal Freedom of Information and Protection of Privacy Act*. It also serves to supplement other existing Town policies. 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 from a base of integrity and fairness to ensure responsible and accountable decision making on its residents behalf.

3.0 Definitions

For the purposes of this Code,

"Clerk" means the Clerk or his/her designate of the Town of Richmond Hill.

"Code" means this Council Code of Conduct as it applies to members of Council of the Town of Richmond Hill.

"complaint" means an alleged contravention of the Code.

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“confidential information” means any information that is not available to the public and that, if disclosed, could result in loss or damage to the Town or could give the person to whom it is disclosed an advantage, as further described in Part 6 of this Code.

“Council” means the Council of the Town of Richmond Hill.

“frivolous” means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense.

“gifts and benefits” means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment.

“good faith” means in accordance with standards of honesty, trust and sincerity.

“hospitality” means instances where there is entertainment of or by outside parties for the furtherance of municipal business.

“Integrity Commissioner” means the Integrity Commissioner appointed by the Council of the Town of Richmond Hill.

“member” means a member of Council of the Town of Richmond Hill.

“office” means the authority and duties attached to the position of being an elected member.

“staff” means all full-time and part-time persons hired by the Town including the CAO, Commissioners, Directors, Managers, Supervisors, Salaried Employees’ Association staff, members of C.U.P.E. Local 905, members of the Richmond Hill Professional Fire Fighters Association, Local 1957, Administrative staff, contract and temporary employees, students, secondements, and co-op placement staff.

“Town” means the Corporation of the Town of Richmond Hill.

“Town property” means items, services or resources which are the property of the Town including but not limited to: materials, equipment, facilities, technology, Town-developed computer programs of technological innovations, databases, intellectual property and supplies.

“vexatious” means without reasonable or probable cause or excuse.

4.0 Application and Responsibilities

This Code applies to all members of the Council of the Town.

It is the responsibility of all members to be aware of and comply with the Code.

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5.0 Acceptance of Gifts and Benefits

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.

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.

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 the Town at an event;
- h) Gifts or benefits received as a result of social protocol, customs or social obligations that normally accompany the performance of official duties;
- i) Food, lodging, transportation and entertainment provided by other levels of government or by other local governments, boards or commissions.

In the case of categories 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 (see Appendix A) and submit it to the Clerk.

The Disclosure Statement shall include:

- The nature of the gift or benefit;
- Its source and date of receipt;
- The circumstances under which it was received; and
- Its estimated value.

Disclosure Statements are a matter of public record.

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It is recognized that the extension and acceptance of forms of hospitality (including invitations to events, outings, engagements, performances etc.) is within the activity suite of members. Any hospitality should fall within the following parameters:

- 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;
- It serves a legitimate business purpose related to the responsibilities of the member;
- The person extending the invitation or a representative of the organization is in attendance; and
- The value and frequency is reasonable.

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

Members shall not disclose or release by any means 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.

Members have a duty to hold in strict confidence all information concerning matters dealt with in meetings closed in accordance with the *Municipal Act*. 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.

Particular care should be exercised in ensuring confidentiality of the following:

- Information relating to the security of the property of the organization;
- Personal matters about an identifiable individual, including municipal employees;
- A proposed or pending acquisition or disposition of land by the municipality;
- Labour relations or employee negotiations including collective bargaining;
- Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality;
- Advice that is subject to solicitor-client privilege, including communication necessary for that purpose;
- Sources of complaints where the identity of the complainant is given in confidence;
- Information about suppliers provided for evaluation which is of a proprietary nature or might be useful to other suppliers;
- Any information in relation to a tender that has or will be issued but that has not been awarded;
- Schedules of prices in contract tenders.

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No member shall access or attempt to gain access to confidential information in the custody of the Town unless it is necessary for the performance of their duties.

7.0 Council, Staff and Public Relations

Staff have an obligation to act impartially, and in accordance with all Town policies including the Employee Code of Conduct. Staff also have an obligation to recognize that members of Council have been duly elected to serve the residents of Richmond Hill and respect the role of Council in directing the actions of the Town.

Members shall acknowledge and respect the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate objectives. In addition, members shall acknowledge and respect the fact that staff carry out directions of Council as a whole and administer the policies of the Town, and are required to do so without any undue influence from any individual member or group of members.

Members shall refrain from publicly criticizing individual members of staff in a way that casts aspersions on their professional competence and credibility.

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. *The Ontario Human Rights Code* applies, as does the Town of Richmond Hill Respect in the Workplace – Workplace Harassment/Discrimination Policy.

8.0 Use of Municipal Property

Members shall not use for personal purposes any Town property, equipment, services, or supplies other than for purposes connected with the discharge of their official duties or associated community activities having the sanction of Council.

Members shall not obtain financial gain from the use of Town developed intellectual property, computer programs, technological innovations, or other kinds of property, while an elected official or thereafter. All such property remains the exclusive property of the Town.

9.0 Compliance and Enforcement

All members shall be aware of and comply with this Code.

The Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code.

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Any individual, including members of the public, Town employees, and members, who has reasonable grounds to believe that a member has breached a provision of the Code, may proceed with a complaint.

Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring. No action will be taken on a complaint received beyond these deadlines.

A complainant does not have to pursue the informal complaint process set out in section 9.1 prior to proceeding with the formal complaint process set out in section 9.2.

No member shall obstruct the Integrity Commissioner in the carrying out of his or her responsibilities.

Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is prohibited.

9.1 Procedure – Informal Complaint

Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code may address their concerns in the following manner:

1. Advise the member that their behaviour or activity contravenes the Code.
2. Encourage the member to stop the prohibited behaviour or activity.
3. If applicable, confirm to the member your satisfaction or dissatisfaction with his or her response to the concern identified.
4. Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.
5. If not satisfied with the response received through the informal process, an individual may proceed with a formal complaint through the Integrity Commissioner as outlined in section 9.2.

9.2 Procedure – Formal Complaint

Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code may address their concerns through the formal complaint process set out below.

1. All formal complaints must be made using the Town's Complaints Form / Affidavit (see Appendix B) and shall be dated and signed by the complainant.
2. The complaint must include an explanation as to why the issue raised may be a contravention of the Code and any evidence in support of the allegation must be included with the Complaints Form/Affidavit.
3. Any witnesses in support of the allegation must be identified on the Complaint Form/Affidavit.

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4. The Complaint Form/Affidavit must include the name of the member alleged to have breached the Code, the section of the Code allegedly contravened, the date, time and location of the alleged contravention and any other information as required on the Complaint Form/Affidavit.
5. The complaint shall be filed with the Clerk who shall confirm that the information is complete as to steps 1, 2 and 4 of this section. The Clerk will forward the Complaint Form/Affidavit to the Integrity Commissioner who will determine whether the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or policies.
6. The Integrity Commissioner may request additional information from the complainant.

9.3 Response of Integrity Commissioner of Complaint Outside Jurisdiction

If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to non-compliance with the Code, the Integrity Commissioner shall advise the complainant in writing as follows:

Criminal Matter – if the complaint is an allegation of a criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service.

Municipal Conflict of Interest – if the complaint is an allegation with respect to matters under the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with their own legal counsel.

Municipal Freedom of Information and Protection of Privacy – if the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be referred to the Clerk to have the matter reviewed under that Act.

If the matter is covered by other policies or legislation, the complainant will be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner.

9.4 Refusal to Conduct an Investigation

If upon review of a complaint, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are no or insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the complainant and the member identified in the Complaint Form/Affidavit.

9.5 Opportunity for Resolution

If at any time, following the receipt of a formal complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the

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matter may be successfully pursued without a formal investigation, and both the complainant and the member agree, efforts may be made to achieve an informal resolution.

9.6 Investigation

If the Integrity Commissioner determines that a formal investigation is required he or she shall proceed in the following manner, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under Parts I and II of the *Public Inquiries Act*.

The Integrity Commissioner shall provide a copy of the complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within ten days.

The Integrity Commissioner shall give a copy of the response provided by the member to the complainant with a request for a written reply within ten days.

If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any Town work location relevant to the complaint for the purpose of investigation and potential resolution.

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

At any time the complainant may abandon the request for an investigation and the Integrity Commissioner will cease his or her investigation.

9.7 Recommendation Report

Upon completion of an investigation, the Integrity Commissioner shall report to the complainant and the member on the results of his or her review within ninety days of receiving a complete Complaint Form/Affidavit. If the investigation process is going to take more than ninety days, the Integrity Commissioner shall provide an interim report to the complainant and member indicating when the complete report will be available.

If during the investigation process, the complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, the terms of any resolution and any recommended action within thirty days.

If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report his or her findings to Council including a recommendation as to the imposition of a penalty as set out

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in the *Municipal Act* of: a reprimand; suspension of remuneration paid to the member for a period of up to ninety days.

If upon completion of the investigation, the Integrity Commissioner finds that there has been no contravention of the Code, or that a contravention occurred, however, the member took all reasonable measures to prevent it, or the contravention committed was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall set this out in its report to Council.

9.8 No Complaints or Reports Prior to Election

No complaint may be referred to the Integrity Commissioner or forwarded by the Clerk for review and/or investigation after May 31 in any year in which a regular municipal election will be held. The Clerk shall forward any complaint received after May 31 to the Integrity Commissioner on December 1 in a regular election year and advise the complainant of this process. The time elapsed between May 31 in a regular election year and the inaugural meeting of the newly elected Council shall not be included in the time calculation referred to in section 9.0.

Notwithstanding section 9.7 of the Code, the Integrity Commissioner shall not make any report to Committee of the Whole or any other person after the last Committee of the Whole meeting in May in any year in which a regular municipal election is to be held. Any reports would proceed to the first Committee of the Whole meeting held after the inaugural meeting of the new Council.

9.9 Confidentiality

The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the Town or not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the *Municipal Act*. Pursuant to section 223.5(3) of the *Municipal Act*, this section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

If the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that in the Integrity Commissioner's opinion is required for the purposes of the report.

If the Integrity Commissioner issues an annual or other periodic report to Council on his or her activities, the Integrity Commissioner shall summarize the advice he or she has given but shall not disclose confidential information that could identify a person concerned.

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10.0 Other Duties of the Integrity Commissioner

In addition, to conducting investigations regarding alleged breaches of the Code, the Integrity Commissioner shall have the following responsibilities:

- Provide information to Council as to their obligations under the Code.
- Provide advice to individual members regarding specific situations as they relate to the application of the Code.
- Provide advice to Council on other policies and procedures that relate to the ethical behavior of members.
- Provide general advice on conflict of interest issues noting that this advice may not be used in defense of allegations related to conflict of interest.
- Provide information to the public regarding the Code and the obligations of members under the Code.
- Provide an annual report to Council on the activities of the Integrity Commissioner.

10.1 Requests for Advice

Where an individual member is seeking to obtain advice from the Integrity Commissioner, the member shall submit to the Clerk a completed Request for Advice Form (see Appendix C) which shall be forwarded to the Integrity Commissioner for response.

The Integrity Commissioner shall provide his or her advice in writing to the member. Any written advice given by the Integrity Commissioner to a member, as it relates to the Code, binds the Integrity Commissioner in any subsequent consideration of the member's conduct in the same matter provided the relevant facts known to the member were disclosed to the Integrity Commissioner.

Any written requests for advice and responses to such requests are covered under the *Municipal Freedom of Information and Protection of Privacy Act*.

10.2 Annual Report to Council

In completing its annual report to Council, the Integrity Commissioner shall include information on the nature and volume of activity for the past year and provide examples, anonymized in respect of advice provided and the nature of complaints received and responded to.

The annual report of the Integrity Commissioner shall be provided to Committee of the Whole for information purposes. The report is a public document.

The Integrity Commissioner shall file his or her annual report no later than 6 months after his or her initial appointment and by October 31 annually thereafter.

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Appendix A

Council Code of Conduct Disclosure Statement

Section 5.0 of the Council Code of Conduct regarding the acceptance of gifts and benefits, requires members to disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$350 or if the total value of gifts and benefits received from one source in a calendar year exceeds \$500. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk within 30 days of receipt of such gift or benefit, or upon reaching the annual limit. Disclosure Statements are a matter of public record.

Nature of Gift or Benefit Received:

Source of Gift or Benefit:

Circumstances Under Which Gift or Benefit Received:

Estimated Value of Gift or Benefit: \$ _____

Date Gift or Benefit Received: _____

Signature of Member:

Date:

Date Statement Received by Clerk: _____

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**Appendix B
Council Code of Conduct – Formal Complaint Form / Affidavit**

AFFIDAVIT OF _____ (full name)

I, _____ (full name), of the (City, Town etc.) _____
_____ (municipality of residence) in the Province of Ontario.

MAKE OATH AND SAY (OR AFFIRM):

1. I have personal knowledge of the facts as set out in this affidavit, because ____

(insert reasons e.g. I work for... I attended a meeting at which... etc.)

2. I have reasonable and probable grounds to believe that a member of the Town of
Richmond Hill Council _____ (specify
name of member). Has contravened section (s) _____ (specify
section(s)) of the Council Code of Conduct of the Town of Richmond Hill. The
particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule A form and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B etc. and attach them to this affidavit.)

Please see the attached Schedule A ()

1. This affidavit is made for the purpose of requesting that this matter be reviewed by the Town of Richmond Hill appointed Integrity Commissioner and for no other purpose.

SWORN (or AFFIRMED) before me at the _____)
_____)
_____ (City, Town etc. of))
_____)
in the Province of Ontario on _____)
_____ (date))
_____)
_____)

(Signature of Commissioner)

A Commissioner for taking affidavits etc.

(Signature)

Please note that signing a false affidavit may expose you to prosecution under Sections 131 and 132 or 134 of the Criminal Code, R.S.C. 1985, c. C-46 and also to civil liability for defamation.

Approved by Council – November 12, 2012

