



INTEGRITY COMMISSIONER

EXPRESSION OF INTEREST #151-21

“ELECTRONIC SUBMISSIONS ONLY”

SUBMISSION DEADLINE/CLOSING DATE:

THURSDAY, November 4, 2021 at Eleven-Thirty Fifty-Nine (11:30:59) a.m. (E.D.T)

I. Overview

Pursuant to the provisions of the Municipal Act, S.O. 2001, Section 223.3 the Corporation of the City of Windsor is seeking Expressions of Interest (EOI) from qualified individuals for the position of Integrity Commissioner for purposes concerning the application of the Code of Conduct and other by-laws/policies governing elected officials and/or members of local boards.

II. Opportunity

The City of Windsor is seeking an Integrity Commissioner for a ** year term to fulfill the requirements of the position as defined in the *Municipal Act*.

The Integrity Commissioner shall be independent and have the authority to deal with requests to investigate contraventions of the Code of Conduct and other by-laws/policies and have the right of free access to all records of the municipality, a Councillor or a local board that the Integrity Commissioner requires to investigate an inquiry. The Integrity Commissioner shall also be authorized and responsible for complaint adjudication, and for providing an educational and advisory component to officials in accordance with the following terms of reference.

Work shall be provided on a flexible, as-needed basis. Candidates shall not have any involvement in any form of political campaign, endorsement, and shall comply fully with the City of Windsor's Conflict of Interest policy.

Job Tasks:

1. **Advisory:** The Integrity Commissioner will provide written and oral advice to individual members of Council about their own situation respecting Code of Conduct and other by-laws/policies governing the ethical behaviour of members, including general interpretation of the *Municipal Conflict of Interest Act*; and providing the full Council with specific and general opinions and advice respecting compliance by elected officials with the provisions of governing Acts and other council policies;
2. **Complaint Investigation:** The Integrity Commissioner will have the power to assess and investigate complaints made to the Commissioner from a member of Council/public; or the whole Council, in a timely manner, all pursuant to section 223.3 of the *Municipal Act*;
3. **Complaint Adjudication:** The Integrity Commissioner will have the power to determine whether a member of Council has in fact violated a City protocol, a by-law or policy governing their ethical behaviour and to recommend appropriate sanctions as prescribed by the *Municipal Act*, except that Council shall make the final decision on whether any penalty recommended is imposed on the member found in contravention;
4. **Education:** The Integrity Commissioner will publish an annual report on findings of typical advice and complaint cases, will provide, as required, outreach programs to members of Council and staff on legislation, protocols and office procedures emphasizing the importance of ethics for public confidence in municipal government; and will disseminate information regarding the Office of Integrity Commissioner to the public.

III. Proponent Criteria

Qualifications

The general qualifications for the office of Integrity Commissioner are as follows:

- a) A degree in a relevant field of study such as Law, Ethics, or Public Administration;
- b) Comprehensive knowledge of the legislative framework, including the *Municipal Act*, lobbying legislation and by-laws, municipal codes of conduct, and the *Municipal Conflict of Interest Act*, enhanced by extensive experience with municipal government, governance and administrative law;
- c) Ability to interpret and apply the provisions of various statutes, regulations, policies, and other enabling frameworks;
- d) Experience managing sensitive inquiries, conducting investigations, and making appropriate recommendations;
- e) Familiarity with investigatory procedures and the applicable legal principles, particularly as they relate to evidence, legal interpretation and natural justice, as well as the application of alternative dispute resolution methods;
- f) At least ten (10) years of senior-level management, legal or judicial experience with preference given to those with judicial experience, or having dealt with compliance matters, conducted investigations, developed policy and delivered advisory and educational services.

The ideal candidate will inspire trust and confidence by demonstrating:

- (a) Proven impartiality, independence, neutrality, sound judgment, and high ethical standards;
- (b) Outstanding written and oral communication skills and experience interacting at a senior level, in the public realm, with a broad range of stakeholders and decision-makers.

The successful proponent will be invited to enter into a contract with the City of Windsor, the terms and conditions of which will be subject to City Council approval.

IV. Submission Requirements

Please include the following in your submission:

- a) Name of person/corporation and contact information;
- b) Resumes and descriptions of all individuals proposed to provide services under the contract, outlining qualifications, experience and any other relevant information;
- c) At least three references that attest to your experience and skills;
- d) A brief statement (no more than one page) describing your understanding of the requirements of the role of Integrity Commissioner.
- e) A brief discussion (no more than one page) discussing your philosophy and approach to fulfilling the role of Integrity Commissioner;

- f) Your fee structure/proposal;
- g) At least two examples of related work you have performed.
- h) Signed Copy of the Expression of Interest Form (Attached as Appendix "A").

V. Submission Process

Interested parties are asked to submit one electronic submission through the Biddingo System.

- i. **"Bidding System"** means the electronic system used by the City for the advertisement of public bid opportunities at the following website: www.biddingo.com.

OR:

- ii. Electronic submissions via email only **will be accepted** for this Expression of Interest. Submit to: purchasing@citywindsor.ca

Subject line: **EOI 151-21, INTEGRITY COMMISSIONER**

"Submission Deadline" means **Thursday, November 4, 2021** at Eleven-Thirty Fifty-Nine (11:30:59) a.m. (E.D.T), as **received** by the Bidding System time (synchronized with any computer clock) during the upload / submission process or as **received** by the purchasing@citywindsor.ca Inbox time (synchronized with any computer clock) during the upload / submission process.

Expressions must include a completed Expression of Interest Form (attached as Appendix A.)

Acceptance and/or rejection of any Expression of Interest will be made accordingly to the City of Windsor Purchasing By-Law 93-2012, and as amended thereto.

The City may, but is not obliged, to ask one or more respondents to attend at an interview or interviews in conjunction with this EOI process, in its sole and absolute discretion.

The selected respondent's proposal will be presented to City Council and recommended for negotiation. City Council may accept or reject this recommendation in its sole and absolute discretion.

VI. Use of Submissions

This Expression of Interest is only for the purposes of obtaining information and does not in any sense create a binding relationship or obligation between the City and the respondent, nor will neither the City nor the respondent have any liability as between them for any reason related to this Expression of Interest.

*** Please note submission will not be returned**

VII. Inquiries

Questions related to the request for expressions of interest must be received at least two working days prior to closing and are to be directed in writing only to purchasing@citywindsor.ca using the subject line “***Integrity Commissioner – EOI 151-21***” in the subject line.

APPENDIX "A"

EXPRESSION OF INTEREST FORM

THE CORPORATION OF THE CITY OF WINDSOR
EOI # 151-21
INTEGRITY COMMISSIONER

This Expression of Interest is submitted by:

Proponent's Registered Legal Business Name

Mailing Address

City, Province/State, Postal/Zip

Proponent Contact Person

()
Telephone

Email

Corporate Name

Name (Please Print)

Signature, and Title

1. **I, WE DECLARE** that no person, firm or Corporation other than the one whose signature is attached below, has any interest in this Expression of Interest.
2. **I, WE FURTHER DECLARE** that this Expression of Interest is made without any connection, knowledge, comparison of figures or arrangements with any other Company, Firm or person making a response for the same work and is in all respects fair and without collusion or fraud.
3. The undersigned have carefully read the requirements as specified in the Expression of Interest, and have examined the content and otherwise satisfied ourselves as to the conditions under which the information is to be provided.
4. I/We have received and allowed for Addenda number (s) _____ in preparing my/our submission.
5. I/We have carefully examined the Expression of Interest documents and have a clear and comprehensive knowledge of the services required and the purpose and intent of the Expression of Interest. By this submission, we agree and consent to the terms, conditions and provisions of the Expression of Interest. I acknowledge that no relationship or obligation will exist between me and the City based on the submission, receipt or evaluation of this Expression of Interest.

Dated at _____ this _____ day of _____, 2021

Name (Please Print)

Signature, and Title

Name (Please Print)

Signature, and Title

CITY OF WINDSOR

Code of Conduct for Members of Council and Local Boards

Appendix B to By-law 98-2011

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I – Preamble

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from the Members that it elects to local government. In turn, adherence to these standards will protect and maintain the City of Windsor's reputation and integrity.

To these ends, in 2011, as part of the adoption of the new Procedure By-Law for the City of Windsor ([By-Law 98-2011](#)) (hereinafter referred to as the "Procedure By-Law") Council adopted the *Code of Conduct for Members of Council*. This *Code of Conduct* was amended in 2017.

II – Framework and Interpretation

The *Code of Conduct* is to be given a 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 when relevant legislation is amended and at other times when it is appropriate to ensure that it remains current and continues to be a useful guide to Council.

In particular, the *Code of Conduct* should be interpreted having regard to the key principles in Article III.

From time to time, additional commentary and examples may be added to this document and supplementary materials may be produced by the Integrity Commissioner as deemed appropriate.

Elected officials who are seeking clarification and who are provided with general advice by the Integrity Commissioner cannot rely upon that advice to the same extent as advice that is given based upon 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 that the general advice was provided.

Members seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.

This *Code of Conduct* operates along with, and as a supplement to, the existing statutes governing the conduct of Members. Four provincial statutes, in particular, govern the conduct of Members of Council:

- The *Municipal Act*;
- The *Municipal Conflict of Interest Act*;
- The *Municipal Elections Act*, 1996; and
- The *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of Members of Council.

III – Key Principles

The key principles that underline the *Code of Conduct* are as follows:

- [a] Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- [b] Members of Council shall be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interests, both apparent and real;
- [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; and
- [d] Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Legislative Assembly of Ontario, and the City Council.

Members of Council shall be required to sign a declaration at the beginning of the term of Council that they are aware of the the *Code of Conduct*, have read and understand their obligations under the *Code*, and that they will will uphold it. Should a Member of Council be elected in a by-election, the Member shall be required to sign the declaration prior to their swearing-in as a Member of Council.

Members of Council, Council committees, and local agencies, boards, and commissions shall receive regular training on the *Code of Conduct*.

RULE NO. 1 – APPLICATION

- 1.0 Subject to Rule 1.3, this *Code of Conduct* applies to the Mayor and all Members of Council.
- 1.1 This *Code of Conduct* also applies to Council appointments to local boards as defined in section 1(1) of the *Municipal Act*, and to appointments to City committees, agencies, boards, and commissions.
- 1.2 The provisions of the *Municipal Conflict of Interest Act* also apply to local boards with decision-making power, as defined in that Act.
- 1.3 Where a Local Board as defined in section (1) of the *Municipal Act* has passed, by proper resolution, its own Code of Conduct for its Members, and there is a conflict between the provisions of the Code of the Local Board and this Code, the more stringent provision of the two shall apply.

RULE NO. 2 – DEFINITIONS

2.0 In this *Code of Conduct* and all schedules or appendices hereto, the following terms have the following meanings:

“conflict of interest” has the same meaning as in the *Municipal Conflict of Interest Act*;

In the *Code of Conduct*, the terms “child”, “parent” and “spouse” have the same meaning as in the *Municipal Conflict of Interest Act*;

“child” means a child born within or outside marriage and includes adopted children and a person whom a parent has demonstrated a settled intention to treat as a child of their family;

“Member” means any person elected or appointed to City Council, a committee of City Council, or a local board or agency;

“parent” means a person who has demonstrated a settled intention to treat a child as a member of their family whether or not the person is the natural parent of the child; and

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

RULE NO. 3 – GIFTS AND BENEFITS

3.0 No Member shall accept a commission, fee, advance, gift, gift certificate, bonus, reward, or personal benefit that is connected directly or indirectly with the performance of his or her duties of Office, unless permitted by the following 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 obligations;
- [c] a political contribution otherwise reported under the *Municipal Elections Act*;
- [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;
- [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 invitation infrequent;
- [h] communication to the offices of a Member, including subscriptions to newspapers and periodicals.

3.1 For the purposes of this *Code*, any commission, fee, advance, gift, gift certificate, bonus, reward, or personal benefit provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

Commentary

- [1] Gifts and benefits are often received by Members in the course of their duties. These "perks" can be signs of respect and admiration for the Member, but can also be seen as instruments of influence or manipulation. This provision of the *Code* prohibits the acceptance of gifts that would, to a reasonable Member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.
- [2] Personal integrity and sound business practices require that relationships with developers, vendors, contractors, and any other party doing business with the City be such that no Member is perceived as showing favouritism or bias.
- [3] 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.

- 3.2 Each Member is individually accountable to the public and shall 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.
- 3.3 In cases of categories (b), (e), (f), (g), and (h), if the value of the gift or benefit exceeds \$300.00, or if the total value received from any one source during the course of a calendar year exceeds \$300.00, the Member shall file a disclosure statement with the Integrity Commissioner within 30 days of receipt of the gift or reaching the annual limit.
- 3.4 The disclosure statement must indicate:
 - 1. the nature of the gift or benefit;
 - 2. its source and date of receipt;
 - 3. its estimated value;
 - 4. what the recipient intends to do with any gift; and
 - 5. whether any gift will at any point be left with the City.
- 3.5 Any disclosure statement is a matter of public record.
- 3.6 On receiving disclosure statements, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in their opinion, create a conflict between a private interest and the public duty of a Member. In the event that the Integrity Commissioner makes the preliminary determination, they shall call upon the Member to justify receipt of the gift or benefit.
- 3.7 Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift, or remit the value of any gift or benefit already consumed to the City.
- 3.8 Except in the case of category (f), a Member may not accept a gift or benefit worth in excess of \$500.00 or gifts and benefits from one source during a calendar year worth in excess of \$500.00.

RULE NO. 4 – REMUNERATION

- 4.0 Every Councillor shall, on an annual basis, publicly disclose all remuneration paid to him or her as a result of being elected as a Member of Council, including all amounts earned in connection with sitting on any and all Agencies, Boards, Commissions, and Council Committees to which they are appointed by virtue of being Members of Council.

RULE NO. 5 – CONFIDENTIALITY

- 5.0 No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so. Nor shall any Member permit any persons other than those who are entitled thereto to have access to confidential information.
- 5.1 No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.
- 5.2 Members 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 not prohibited by Council policy.
- 5.3 Pursuant to the *Procedure By-Law*, a matter that has been discussed at an *in-camera* (closed) meeting remains confidential. No Member shall disclose the content of any such matter, or the substance of deliberations, of the *in-camera* meeting until the Council or committee, local board or agency discusses the information at a meeting that is open to the public or releases the information to the public.
- 5.4 Pursuant to the *Municipal Act*, information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation shall remain confidential. For the purposes of the *Code of Conduct*, “confidential information” also includes this type of information.

Commentary

- [1] Confidential information includes information in the possession of the City 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 other legislation. Generally, 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.
- [2] The following is a non-exhaustive list of examples of the types of information that a Member must keep confidential:
- a. items under litigation, negotiation, or personnel matters;
 - b. information that infringes on the rights of others (i.e. sources of complaints where the identity of a complainant is given in confidence);
 - c. unit pricing pertaining to lump-sum contracts, tenders, or requests for proposal
 - d. information deemed to be “personal information” under the *Municipal*

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| <p><i>Conflict of Interest Act</i>; and</p> <p>e. statistical data required by law not to be released (i.e. certain census or assessment data).</p> |
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RULE NO. 6 – CONFLICT OF INTEREST

- 6.0 Members are bound by the *Municipal Conflict of Interest Act* and part 5 of the *Procedure By-law* to identify and disclose any pecuniary interest in any item or matter before the Council or any Standing Committee or other committees of Council.
- 6.1 Members shall not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not applicable to every other individual member of the public.
- 6.2 Members of Council may seek conflict of interest advice, including a written opinion, from the Integrity Commissioner, as per Rule 18 of the *Code of Conduct*. However, this will not provide immunity in any proceeding in a court of law brought pursuant to the *Municipal Conflict of Interest Act*.
- 6.3 Members shall not use their positions to further their private interests, nor shall they vote on any issue at Council or committee that puts them in a real or apparent conflict with their personal finances. They shall declare their conflict and recuse themselves.
- 6.4 Members of Council shall take all necessary steps to avoid preferential treatment or the appearance of preferential treatment for friends or family. Members shall recuse themselves from matters that pose a conflict with the finances of their spouses, parents, or children.
- 6.5 Members of Council shall not concurrently accept employment by an outside interest that is either incompatible with or in conflict with their official duties.

<i>Commentary</i>

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| <p>[1] Members of Council are governed by the <i>Municipal Conflict of Interest Act</i> 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 the alleged contraventions under the <i>Municipal Conflict of Interest Act</i>.</p> |
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RULE NO. 7 – USE OF CITY PROPERTY, SERVICES, AND OTHER RESOURCES

- 7.0 No Member of Council should use, or permit the use of City land, facilities, equipment, supplies, services, staff, or other resources for activities other than the business of the Corporation.

Commentary
[1] “Other resources” in Rule 7.0 can include, but are not limited to, City-owned materials, websites, Council transportation delivery services, and Councillors’ global budgets.

- 7.1 No Member should obtain financial gain from the use or sale of City-developed intellectual property, computer programs, technical innovations, or other items capable of being patented, since all property remains exclusively that of the City.

RULE NO. 8 – IMPROPER USE OF INFLUENCE

- 8.0 No Member of Council shall use the influence of their office for any purpose other than the exercise of their official duties.
- 8.1 Members shall not hold out of the prospect or promise of future advantage through a Member’s supposed influence within Council in return for present action or inaction.

Commentary
[1] 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 parents, children, spouse, staff Members, friends, or associates (business or otherwise).
[2] This includes attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties.
[3] For the purpose of this <i>Code</i> , “private advantage” does not include a matter: [a] that is of a general application; [b] that affects a Member of Council, their parents, children, spouse, staff members, friends, or associates as one of a broad class or persons; or [c] that concerns the remuneration or benefits of a Member of Council in his or her capacity as a Member.

RULE NO. 9 – BUSINESS RELATIONS

- 9.0 No Member shall act as a paid agent before Council, its committees, or an agency, board, or commission of the City except in compliance with the *Municipal Conflict of Interest Act*.
- 9.1 A Member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

- 9.2 No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company regulated under the *Bank Act*, SC 1991, c 46.

RULE NO. 10 – CONDUCT RESPECTING CURRENT AND PROSPECTIVE EMPLOYMENT

- 10.0 No Member shall allow the prospect of their future employment by a person or entity to affect the performance of their duties to the City.

RULE NO. 11 – ELECTION CAMPAIGN WORK

- 11.0 In the case of a regular election, members who are seeking re-election are required to follow the City Clerk's Procedure #A-7, "Use of Corporate Resources by Council Member seeking Re-election" (Schedule "A-1" attached) and sign Form EL13 (Schedule "A-2" attached), both as amended from time to time, under the provisions of the *Municipal Elections Act*, S.12(1).

Commentary

- [1] The prohibition applies to both the promotion of, and opposition to, the candidacy of a person for elected office.
- [2] Election-related activity applies not only to a Member's personal campaign for office, but also for other campaigns for municipal, provincial, and federal office .

RULE NO. 12 – CONDUCT AT COUNCIL

- 12.0 Members shall conduct themselves with decorum at Council in accordance with the provisions of the *Procedure By-Law*.

Commentary

- [1] Part 14 of the Procedure By-Law establishes that Members shall:
- [a] not use indecent, offensive words or insulting expressions at any time toward other Members of Council, Civic Administration, delegations, or Members of the public;
 - [b] not speak in a manner that is discriminatory in nature based upon an individual's race, ancestry, place of origin, ethnic origin, creed, gender, sexual orientation, age, colour, marital status, or disability; and
 - [c] not criticize any decision of the Council except for the purpose of introducing a motion for reconsideration under section 13 of the Procedure By-law.

RULE NO. 13 – CONDUCT RESPECTING STAFF

- 13.0 No Member shall use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff Member with the intent of interfering with that person’s duties, including the duty to disclose improper activities.
- 13.1 Members shall be respectful of the role of City staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of Council. Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the City.
- 13.2 No Member shall compel staff to engage in partisan political activities or subject staff to threats or discrimination for their refusal to engage in such activities.
- 13.3 Only Council as a whole has the authority to approve budget, policy, committee processes, and other such matters. Accordingly, Members shall direct requests outside of Council-approved budget, process, or policy to the appropriate committee of Council.

Commentary

- [1] Under the direction of the Chief Administrative Officer, staff serves the Council as a whole, and the combined interests of all Members as evidenced through the decision of Council.
- [2] In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Members when performing other roles. The key requirement of these roles are captured in Schedule “B” to the *Code of Conduct* and include dealing with the constituents and the general public, participating as Council Committee Members, participating as Chairs of Council 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 Council.

RULE NO. 14 – MANDATORY WARD MEETINGS

- 14.0 There shall be, on an annual basis, a minimum of one (1) ward meeting held per electoral ward, and the Councillor representing each ward shall schedule and chair said meeting.

RULE NO. 15 – DISCREDITABLE CONDUCT

- 15.0 All Members of Council 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.

Commentary
[1] <i>The Ontario Human Rights Code</i> , as well as the City of Windsor Workplace Violence Policy and Workplace Harassment Policy, applies to the conduct of all Members.

RULE NO. 16 – TRANSPARENCY AND OPENNESS IN DECISION MAKING

- 16.0 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, so that stakeholders can observe the process and rationale which was used to reach decisions, and the reasons for taking certain actions.
- 16.1 Members shall accurately communicate the decisions of 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.
- 16.2 A Member may state that they did not support a decision or voted against a decision. However, Members shall refrain from making disparaging comments about other Members or about Council's processes and decisions.
- 16.3 When communicating with the public, a Member shall at all times refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member of Council.
- 16.4 Members shall note that section 14.1(e) of the *Procedure By-law* states that Members shall not criticize any decision of Council except for the purpose of introducing a motion for reconsideration under s.13 of the *Procedure By-law*.

RULE NO. 17 – FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES

- 17.0 Members of Council are required to observe the terms of all policies and procedures adopted by Council.
- 17.1 This provision does not prevent a Member of Council from requesting that Council grant an exemption from a policy

RULE NO. 18 – REPRISALS AND OBSTRUCTION

- 18.0 Any reprisal or threat of reprisal against a complainant or anyone providing relevant information to the Integrity Commissioner is prohibited.
- 18.1 It is a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of their responsibilities through, for example, the destruction of documents or the erasing of electronic communications.
- 18.2 Members shall respect the integrity of the *Code of Conduct* and any investigations conducted under it.

RULE NO. 19 – ACTING ON THE ADVICE OF THE INTEGRITY COMMISSIONER

- 19.0 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, as long as all of the relevant facts known to the Member were disclosed to the Integrity Commissioner.

RULE NO. 20 – COMPLIANCE WITH THE CODE OF CONDUCT

- 20.0 Sub-section 223.3(5) of the Municipal Act authorizes Council to impose either of two penalties on a Member of Council or a local board following a report by the Integrity Commissioner that, in their opinion, there has been a violation of the *Code of Conduct*:
- a. A reprimand; or
 - b. Suspension of the remuneration paid to the Member in respect of their services as a Member of Council or the local board, as the case may be, for a period of up to 90 days.
- 20.1 For remedial purposes, the Integrity Commissioner may also recommend that Council or a local board take the following actions:
- a. revocation of a Member's membership on a committee or local board;
 - b. removal of a Member from the Chair of a committee or local board;
 - c. repayment or reimbursement of monies received;
 - d. return of property or reimbursement of its value; or
 - e. a request for an apology to Council, the complainant, or both.

Commentary

- [1] Members of Council are accountable to the public through the four-year election process. Between elections, they may become disqualified and lose their seat if, for example, they are convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.

**Schedule “A-1” to the Code of Conduct
City of Windsor Clerk Procedure #A-7
Use of Corporate Resources by Council Members Seeking Re-election
(Effective 2 January 2018)**

1. PURPOSE

1.1 To establish guidelines on the appropriate use of corporate resources by incumbent Council members **seeking re-election** for the 2018 Municipal Election to ensure they are not receiving campaign contributions from the Corporation of the City of Windsor. This procedure will protect the interests of both the Council members and the Corporation.

2. SOURCE

2.1 *Municipal Elections Act, Sections 12(2), 88.8(4)5*

2.2 *Code of Conduct for Members of Council, Rule 7 and Rule 11*

2.3 Note: *The Municipal Elections Act prohibits a municipality from making a contribution to a candidate. The Act also prohibits a candidate, or someone acting on the candidate’s behalf, from accepting a contribution from a person or entity who is not entitled to make a contribution.*

As a contribution may take the form of money, goods or services, any use by a Member of Council of the Corporation’s resources for his or her election campaign would be viewed as a contribution by the municipality to the incumbent, which is a violation of the Act and could result in penalties.

3. PROCEDURES

PREAMBLE

It is the responsibility of members of City Council seeking re-election for the 2018 municipal election to read *Clerk’s Procedure A-7, Use of Corporate Resources by Council Member Seeking Re-Election* thoroughly and to sign Form EL13, the cover letter to this procedure. The original signed copy of the letter will be retained by the Clerk’s Office with the candidate’s nomination form. These procedures come into effect for the Councillor seeking re-election upon the filing of their nomination paper with the City Clerk during the candidate’s campaign period even if the incumbent becomes acclaimed to the Office during the election process.

Nothing in this procedure shall preclude a member of Council from performing their duties as an elected Councillor, nor inhibit them from representing the interests of the constituents they represent in their respective ward.

3.1 The Use of Formal City Council Meetings

Members of Council seeking re-election and registered as nominated candidates for

the 2018 municipal election, may not use City Council and Committee meetings for campaigning purposes.

3.2 The Use of City Equipment and Supplies

Members of Council seeking re-election and registered as nominated candidates for the 2018 municipal election shall not use Corporate property for election campaigning purposes including but not limited to Corporate computers, email system, printers, telephones, voicemail system, and stationery supplies. This also includes posting links on the City's website and the City's social media networks.

3.3 (a) The Use of City-owned Facilities

Subject to subsection 3.3(c), all registered candidates for the 2018 municipal election may rent a room(s) in a City-owned facility for election-related purposes using the established rental payment process that is available to the public. This will ensure that all candidates running in the election are treated fairly and equitably by the municipality.

(b) The Use of City-owned Properties

Subject to subsection 3.3(c), registered candidates for the 2018 municipal election are not allowed to use city-owned properties for election-related activities such as fund-raising functions, gatherings, media events, and signage, save and except areas that are for public use which are not subject to a rental fee. For example, general campaigning in a City park.

(c) The Use of City Hall (350 City Hall Square West and 400 City Hall Square East

No candidate shall use the actual administrative buildings of either 350 City Hall Square West and 400 City Hall Square East for any campaigning purposes relating to a municipal election.

3.4 The Use of Councillor Constituency Office

Members of Council seeking re-election and registered as nominated candidates for the 2018 municipal election may not use their constituency office for election purposes or display election-related material in that office.

3.5 The Use of City Employees

Members of Council seeking re-election and registered as nominated candidates for the 2018 municipal election may not use city staff to canvass or actively work in support of a municipal candidate during normal working hours unless they are on a leave of absence without pay, lieu time, or vacation leave.

3.6 The Use of Election Signs

Members of Council seeking re-election and registered as nominated candidates for the 2018 municipal election should make reference to the City of Windsor's Sign By-law 250-2004, Guidelines from the Chief Building Official, and the Public Works By-law 25-2010 with respect to the allowable placement of election signs. These documents are contained in the Candidate's Package distributed to all registered candidates at the time of filing the nomination paper.

3.7 The Use of Councillor Funding Sources

Members of Council seeking re-election and registered as nominated candidates for the 2018 municipal election may not use Municipal funding sources for any election-related purpose.

Incumbent candidates may not print or distribute any material paid by municipal funds that illustrates that they or any other individual is registered as a candidate in an election.

It is the responsibility of the incumbent candidate to ensure that the content of any communications material, including printed material such as newsletters, advertising, etc. funded by the municipality for the operation of each Councillor's Office, is not election-related.

3.8 The Use of Ward Funds

Members of Council may not initiate projects using municipal ward funds from Nomination Day, Friday, July 27, 2018 up to Voting Day, Monday, October 22, 2018, unless specifically approved by Council.

3.9 The Distribution of Candidate Election Campaign Material

Members of Council seeking re-election and registered as nominated candidates for the 2018 municipal election are not allowed to distribute their campaign-related material in any City-owned facility

Incumbents are not allowed to distribute their campaign material to city employees while the employee is being paid by the Corporation of the City of Windsor.

3.10 The Discontinuation of Select Corporate Resources

The following will be discontinued for members of Council from the day prior to Nomination Day, Thursday, July 26, 2018 to Voting Day, Monday, October 22, 2018:

- **All forms of advertising, including in-house municipal publications;**
- **All printing and distribution of newsletters, unless directed by Council;**
- **The ordering of office furniture and furnishings except those of an emergency nature;**
- **No movement of furniture and furnishings;**
- **No ordering of stationery and office supplies.**

4. RECORDS, FORMS, AND ATTACHMENTS

4.1 Form EL13 – Cover letter signed by City Clerk

**Schedule "A-2" to the Code of Conduct
City of Windsor Form EL13
Use of Corporate Resources and Corporate Communication Tools by Council Members
Seeking Re-election
(Effective 2 January 2018)**

NOTICE TO INCUMBENT CANDIDATES

Re: Use of Corporate Resources and Corporate Communication Tools during an Election Year

If you have filed your nomination paper with the City Clerk for the October 2018 election your campaign period begins with the day you file your nomination with the City Clerk and will end on December 31, 2018. Campaign contributions and expenses may only occur during your campaign period.

Section 88.8(4)5 of the *Municipal Elections Act* specifically prohibits a municipality from contributing to a candidate's election campaign. Any use of the City's Corporate property such as facilities, services, land, monetary resources, etc. for election purposes could be interpreted as a contribution from the municipality to your campaign and therefore a violation of the *Act*, which could carry a penalty.

The following procedure established under section 12(1), *Municipal Elections Act* provides current members of council who are registered nominated candidates for the 2018 municipal election with guidelines on the appropriate use of corporate property during the election process.

Please review this procedure at the time of filing your nomination paper with the City Clerk and formally sign this document as evidence that you are aware of this election procedure.

The intent of this election procedure is not to inhibit Councillors from representing the interests of their constituents who elected them, but only to set out guidelines as to the restrictions within the context of the *Municipal Elections Act*.

Questions about this communication may be directed to the Deputy City Clerk or Manager, Records and Elections.

Date

Valerie Critchley

City Clerk or Designate

Candidate

**Schedule “B” to the Code of Conduct
City of Windsor Council-Staff Protocol (Revised August 2016)**

INTRODUCTION

Members of Council and staff of the City are both servants of the public and they are indispensable to one another. The Council directs the business of the City and passes by-laws, or resolution as appropriate, for decisions adopted by Council. The City of Windsor’s Council Staff Protocol sets out guidelines and ground rules for the effective interaction of City Council and staff members in the governing and management of the municipality.

Council has delegated responsibility to the Chief Administrative Officer for the administration of the affairs of the City in accordance with the by-laws adopted. This means that under the direction of the CAO, staff have the responsibility and the authority to provide consultation, advice and direction to Council and to implement Council-approved policy. Accordingly, staff establish the appropriate administrative directives, procedures, systems, structures and internal controls to implement the goals and objectives of Council, and to manage implementation within the resources at their disposal.

Role clarification and sensitivity to the difference between the roles played by Council and staff are fundamental to the success of our working relationships. Both Council and staff have a responsibility to understand their role and follow the Council-Staff Protocol accordingly. Both Council and staff are expected to enhance public education by providing context and process information about decision-making. Council and staff are required to work together towards policy development and implementation while understanding the various roles and expectations necessary for a highly effective working relationship.

Council and staff operate within a very complex environment. Therefore, some flexibility is required. Maintaining mutual respect between City staff and Council Members is the only way to foster highly effective working relationships. Defining roles and expectations in advance helps achieve effective relationships that are equitable and without favouritism. Council and staff demonstrate respect by refraining from expressing criticism of each other in public or through public communications regardless of the medium.

SCOPE

This Council-Staff protocol applies to all Members of City Council and City staff, and members of boards and staff of related agencies, boards, and commissions.

Council and Administration will review the Council-Staff Protocol at the beginning of each new term of Council (at least once every four years) and incorporate any necessary amendments.

ROLES, RESPONSIBILITIES, AND EXPECTATIONS

General

The core values held by Members of Council, committees, or local boards and City staff are *integrity, ethics, accountability, responsibility, service, service quality, trust, and leadership*. These values will be reflected in policy decisions, policy implementation, and will form a vital part of the City of Windsor's everyday operation.

In order to best embody these values, the jointly-held responsibilities of all Members of Council, committees, or local boards and City staff are as follows:

- [a] Demonstrate commitment to communication and consultation among ourselves and with the general public.
- [b] Show leadership, relying on our knowledge and judgment, and respond based upon our areas of expertise.
- [c] Maintain confidentiality at in-camera, committee and other meetings.

The Mayor

The Mayor, for example:

- [a] Is the Chief Executive Officer of the Municipality;
- [b] Carries out the duties of the head of Council under the Municipal Act or any other Act
- [c] sees that the laws for the government of the Corporation are duly executed and obeyed;
- [d] oversees the conduct of the subordinate officers in the government and administration and sees that all proven negligence, carelessness and violation of duty are dealt with;
- [e] communicates information and recommendations to the Council from time to time that will tend to the improvement of the government;
- [f] presides at all meetings of Council and ensures that all proceedings and conduct are enacted in accordance with the Procedure By-Law so that the business of Council can be carried out efficiently and effectively;
- [g] may summon a special meeting of the Council within a specified time period, as well as when requested to do so in writing by a majority of Members;
- [h] represents the views and interest of the City, its residents and taxpayers at a variety of official, public, ceremonial and intergovernmental events; and
- [i] signs all By-laws and may sign debentures and promissory notes on behalf of the municipality.

Council

The Whole Council, for example:

- [a] exercises the authority delegated by the provincial legislature to the municipality and does not possess authority separate to that derived from provincial statute;
- [b] is the legislative arm of the municipality and makes laws, determines property taxation levels, allocates expenditures and holds civic staff accountable by providing them with direction, assigning resources and monitoring policy decisions as implemented by staff;
- [c] must have a quorum in order to vote to amend or enact by-laws;
- [d] in a Committee-of-the-Whole meets as a general Committee to discuss and vote on which recommendations shall be forwarded to Council for subsequent decision;
- [e] may sub-delegate administrative authority where the delegation does not entail power to determine or adjudicate rights; make policy; or take legislative action;
- [f] receives all reports of all Standing Committees and other designated bodies for their acceptance, amendment, deferral as the Council deems appropriate;
- [g] holds regular and special meetings of Council in open sessions; a Committee-of-the-Whole meeting in open or closed session for legal, personnel or property matters of a sensitive nature; and
- [h] may not amend or pass any by-law where Council meets as a Committee-of-the-Whole;
- [i] follows the procedures it establishes in the Council Procedure By-law.

Councillors generally, for example:

- [a] represent the views of the public and exercise judgment to make decisions on behalf of them;
- [b] respond to resident inquiries or refer such inquiries to appropriate staff or other organizations and generally provide assistance to constituents;
- [c] participate in Council meetings and undertake the activities within the authority, operations and procedures of Council as outlined in (a) above;
- [d] choose among alternatives and reconcile conflict among competing priorities;
- [e] stay informed and keep up to date;
- [f] in Council, correct deficiencies in the system; and
- [g] in Council, determine the overall system and structure of the Corporation.

Committees of Council, as a Whole, for example:

- [a] request reports as required to aid in their decisions on recommendations to Council;
- [b] report and make recommendations to Council on policy matters referred to them;
- [c] provide access to public communication and deputation on matters within their purview; and
- [d] examine all accounts connected with discharging its duties or under its supervision in accordance with the *Procedure By-law*, the *Purchasing By-law*, and other by-laws.

Council Committee Chairs, for example:

- [a] review, identify and prepare agenda items and priorities with Department Heads and the Office of the clerk's as appropriate;
- [b] ensure program policies and priorities are established by the Committee;
- [c] are often called upon at Council to answer questions on Committee recommendations;

- [d] conduct meetings, provide direction, ensure fair and open discussion of agenda items in accordance with established procedures; and
- [e] may call special meetings of the Committee when the Chair or Members feel it is necessary to so so.

Council Members on Agencies, Boards and Commission, generally:

- [a] perform as part of a Board, most of the same roles as Standing Committees;
- [b] balance their role as the custodian of the City's tax dollars and representative of Council policies, with that of their fiduciary and other duties as a Board Member;
- [c] provide specialized advice and expertise to aid in decision making; and
- [d] provide an essential link between the body and Council such that Council positions can be conveyed to the body and vice-versa.

The expectations of Council, its committees, and its Members in fulfilling the above roles and responsibilities are as follows:

- [a] Govern and provide/set clear political direction.
- [b] Establish the municipality's vision and goals, and define needs and outcomes to be achieved through empowerment and effective staff performance.
- [c] Act as a whole in developing policy.
- [d] Respond to constituents concerns, keep City staff members informed, be open to discussion and ask for clarification when needed.
- [e] Understand that individual Council Members represent Council as a whole in the eyes of the public and staff members. Council Members have a responsibility to bring controversial decisions back to the whole Council.
- [f] Refrain from providing individual direction to the chief Administrative Officer to initiate any action or prepare any report of a significant nature, or initiate any project or study without the consent of the entire Council.
- [g] Ask questions of staff members prior to the public meetings whenever possible.
- [h] Refrain from attempting on an individual basis to change or interfere with the operations and practices of any City department. Any questions or concerns related to operating rules and practices should be directed to the Executive Director of the department and any service requests should be directed to 311;
- [i] Be sensitive to staff workload and resources
- [j] Refrain from using administrative resources for political/personal purposes.
- [k] Refrain from micro-managing
- [l] Be open-minded, supportive; staff are fallible
- [m] Praise publicly and criticize privately
- [n] Respect administrative expertise; show respect

Staff

City Staff, for example:

- [a] provide timely and useful advice to Council and its Committee;

- [b] carry out specific directives, motions and policies approved or delegated to them by the Council;
- [c] follow the intent of Council directions;
- [d] alert Council to legal limitations of proposals, or changes in legislation, or unintended impacts of decisions;
- [e] administer the organization and are responsible for day-to-day tasks in operations management;
- [f] recommend policies, programs and budgets to Standing Committees and Council;
- [g] respond to public inquiries and advise on Council approved policies;
- [h] use allocated resources appropriately;
- [i] stay informed and up to date;
- [j] undertake research and report in findings;
- [k] evaluate staff assigned and correct any performance as required; and
- [l] encourage the development of all staff under their supervision.

The expectations of City staff in fulfilling the above roles and responsibilities are as follows:

- [a] Adhere to current Council approved policy.
- [b] Accept that Council sets the agenda; refrain from directly or indirectly lobbying Council.
- [c] Changes to policy should be formalized through reports to City Council. Keep Council informed and do not blind side them (no surprises).
- [d] Respect the limitations of the time of Council Members
- [e] Be respectful and patient; don't point fingers of blame toward City Council.
- [f] Provide factual, clear, timely and professional advice based upon professional judgment but also include a range of options where applicable.
- [g] Provide high quality advice to Council based on political neutrality and objectivity irrespective of party politics, the loyalties of persons in power, or their personal opinions.
- [h] Respect Council's political decisions and refrain from making public any personal comments related to those decisions.
- [i] Address Council questions on a timely basis and seek clarification when necessary and where appropriate.