

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 068-2020

A By-law to pass an amended Code of Ethical Conduct for Members of Council and Local Boards and an amended Complaint Protocol.

WHEREAS section 223.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorizes and requires municipalities to establish codes of conduct for members of the council of the municipality and of its local boards;

AND WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to govern;

NOW THEREFORE the Council of The Corporation of the City of Vaughan ENACTS AS FOLLOWS:

- (1) The Code of Ethical Conduct for Members of Council and Local Boards substantially in the form as attached as Attachment 1 hereto is hereby adopted.
- (2) The Complaint Protocol substantially in the form as attached as Attachment 2 hereto is hereby adopted.

Enacted by City of Vaughan Council this 27th day of May, 2020.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk



Attachment 1

**CITY OF VAUGHAN
POLICY MANUAL**

Policy No:	CL – 011
Department:	COUNCIL
Subject:	CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

CITY OF VAUGHAN

Council Approval: 2009/21/09
Minute No. 181
Cross Reference: Policy No. 01.35

Amended: 2011/06/28
Report No/Item: 35/2

**CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL
CITY OF VAUGHAN
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Introduction

Democracy is an active process – one that requires ongoing engagement between citizens and their elected officials. Ethics and integrity are at the core of public confidence in government and in the political process.

There has been a general trend at the municipal level of government in Ontario, to develop rules around ethical conduct for elected officials so that they may carry out their duties with impartiality and equality of service to all, recognizing that as leaders of the community, they are held to a higher standard of behavior and conduct. As of March 2019, municipalities are required to have codes of ethical conduct in place for Members of Council and local boards.

It is the purpose of this *Code of Ethical Conduct* to establish rules that guide Members of Council and Members of local boards (using the restricted definition of this term provided herein) in performing their diverse roles in representing their constituents and recognize Members' accountability for managing City resources allocated to them.

Preamble

Whereas the City of Vaughan first instituted a *Code of Conduct* for Members of Council in 1996;

And whereas the current *Code of Conduct for Members of Council* was adopted by Council in 2009;

And whereas the *Modernizing Ontario's Municipal Legislation Act, 2017*, S.O. 2017, c. 10, and the corresponding amendments to applicable legislation, require municipalities to establish codes of conduct for Members of Council and Members of local boards;

And whereas elected officials and Members of local boards of the City of Vaughan have and recognize their obligation to not only obey the law, but to go beyond the minimum standards of behaviour and act in a manner that is of the highest ethical ideals so that their conduct will bear the closest public scrutiny;

And whereas the private interest of elected officials and Members of local boards of the City of Vaughan must not provide the potential for, or the appearance of, an opportunity for benefit, wrongdoing, or unethical conduct;

And whereas this *Code of Ethical Conduct* stems from the principles of the pre-existing *Code of Conduct* that has been in place since 2009 based on the belief by the Council of the City of Vaughan that not just employees but also elected officials should have a document against which to measure their conducts that they may be held to account;

The Council of the City of Vaughan will adopt certain rules that further underscore a Councillor's belief in his/her responsibility as a public trustee and confirm that Members of City of Vaughan local boards will be held to the same ethical standard;

Commentary

The operation of democratic municipal government requires that elected officials and Members of local boards be independent, impartial and duly responsible to the people. To this end, it is imperative that:

- The City of Vaughan decisions and policy be made through the proper processes of municipal government structure.
- The City of Vaughan government structure and decision-making process reflect the importance of integrity, independence and accountability.
- Public office and membership on local boards shall not be used for personal gain.
- The public have confidence in the integrity of its municipal government and its local boards.

A written *Code of Ethical Conduct* protects the public interest and helps to ensure that the Members of Council and Members of local boards share a common basis for acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the Members must operate.

The public is entitled to expect the highest standards of conduct from the Members that it elects to local government and Members that serve on its local boards. Members of Council and local boards are therefore expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny. In turn, adherence to the standards set out in this *Code* will protect and enhance the City of Vaughan's reputation and integrity.

Framework and Interpretation

1. This *Code of Ethical Conduct* applies to the Mayor and all Members of Council as well as all Members of local boards (restricted definition). It is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. Commentary and examples used in this *Code of Ethical Conduct* are meant to be illustrative and not exhaustive. From time to time additional commentary and examples may be added to this document by the Integrity Commissioner, as she or he deems appropriate.
2. The Integrity Commissioner is responsible for performing, in an independent manner, the following:
 - a. The application of this *Code of Ethical Conduct* for Members of Council and Members of local boards.

- b. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of Members of Council and of local boards.
 - c. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended, to Members of Council and of local boards.
 - d. Requests from Members of Council and of local boards for advice respecting their obligations under this *Code of Ethical Conduct*.
 - e. Requests from Members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of Members.
 - f. Requests from Members of Council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
 - g. The provision of educational information to Members of Council, Members of local boards, the municipality and the public about this *Code of Ethical Conduct* and about the *Municipal Conflict of Interest Act*.
3. With respect to requests for advice, referred to in paragraphs 2(d),(e), and (f) above:
 - a. Requests for advice from Members shall be in writing and the Integrity Commissioner shall provide all advice in writing; and
 - b. As long as all the facts known to the Member are disclosed to the Integrity Commissioner and there is no change to these facts, then the Member may rely on any written advice provided by the Integrity Commissioner.
 - c. The Integrity Commissioner will create a “confidentiality wall” such that, if the Integrity Commissioner receives a Formal Complaint in respect of the matter for which advice was given, the written advice provided to the Member will not remove the presumption of neutrality of the Integrity Commissioner or unfairly prejudice the Member.
 4. Members of Council, Members of local boards, and members of the public or City Staff seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.
 5. The Integrity Commissioner is barred from conducting an inquiry in respect of actions, omissions, or decisions of the administration of Council. Any requests for inquiry or complaints in respect of actions, omissions or decisions of the administration of Council shall be denied by the Integrity Commissioner.
 6. With respect to requests for advice, referred to in paragraphs 2(d), (e) and (f) above, the Integrity Commissioner will not be barred from receiving and investigating complaints for which written advice was given. Notwithstanding the above, the Integrity Commissioner may, from time to time and within her discretion, decide to delegate the investigation of a complaint under subsection 223.3(3) of the *Municipal Act*.
 7. Should an issue arise where it may be unclear whether a complaint falls within the mandate of York Region or the City of Vaughan, both the Regional and City of Vaughan Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). In such instances, consideration should be given to the following:
 - a. The municipality in which the complaint was filed;
 - b. The municipality in which the expense/mileage claim was submitted for an event or function; and
 - c. The reasonableness for the respective municipality’s Integrity Commissioner to undertake the investigation.

Commentary

This *Code of Ethical Conduct* does not prohibit the activities in which Members of Council normally engage on behalf of constituents in accordance with applicable laws.

The *Municipal Act* is the primary source of regulation for municipalities and provides the basis for good governance within municipal government. There are other important documents that regulate

the behavior and conduct of Members. Clear and consistent written rules provide elected officials with confirmation that their actions adhere to the highest ideals of integrity during their term of office. This *Code of Ethical Conduct* operates together with and as a supplement to the following existing statutes, documents and policies governing the conduct of Members.

Legislation:

- The *Municipal Act, 2001*, S.O. 2001, c. 25;
- The *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50;
- The *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched;
- The *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56; and
- The *Criminal Code*, R.S.C., 1985, c. C-46.

Definitions:

In this *Code of Ethical Conduct*:

1. the terms “Child”, “Parent” and “Spouse” have the same meanings as in the *Municipal Conflict of Interest Act*;
2. “Elector” has the same meaning as set out in section 1 of the *Municipal Conflict of Interest Act*.
3. “Employee” includes a consultant, a part-time or seasonal worker, and full-time worker, but not a Member.
4. “Member” means (i) a member of Vaughan City Council, or (ii) a member of the following local committees/local boards: Accessibility Advisory Committee, Committee of Adjustment, Heritage Vaughan Committee, and the Property Standards Committee.
5. “Family Member”¹ means,
 - Spouse, common-law partner, or any person with whom the person is living as a Spouse outside of marriage
 - Parent, including step-parent and legal guardian
 - Child, including step-child and grandchild
 - siblings and children of siblings
 - aunt/uncle, niece/nephew, first cousins
 - in-laws, including mother/father, sister/brother, daughter/son
 - any person who lives with the Member on a permanent basis
6. “Official duties” or “functions” have the following meaning:

For Members of Council, it includes those activities that are reasonably related to a Member’s office, taking into consideration the different interest, the diverse profiles of their wards and their different roles on Committees, agencies, boards and commissions.

For persons employed in the office of Members, it includes those activities and responsibilities that flow from acting on direction from or taking action on behalf of a Member.
7. “Staff” includes Deputy City Managers, Directors, Managers, Supervisors, clerical and technical unionized employees, hourly unionized staff, part-time unionized staff, full-time non-unionized employees, temporary / seasonal staff, contract staff, students and volunteers.

Implementation:

This *Code* shall replace Policy Number CL-011 – *Code of Ethical Conduct for Members of Council*.

¹ For the purposes of complaints under section 5, 5.1 and 5.2 of the MCIA, the Integrity Commissioner will adopt the definitions contained in the *Municipal Conflict of Interest Act*, section 3 in respect of an interest of certain persons deemed that of the Member.

Rule No. 1

Key Principles: The key principles that underline the rules in this *Code of Ethical Conduct* and shall be used to guide Members in decisions on their actions, and to guide the Integrity Commissioner in interpreting Rules 2 – 21 of this *Code*, are as follows:

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

Commentary

This underscores that Members carry out their official City activities in a way that will foster and enhance respect for government and above all, demonstrate respect for members of the public.

- b) **Members should be committed to performing their Functions with integrity and transparency.**

**Amended, Council, June 28, 2011, Rpt 35, Item 2:*

Responding to Inquiries from the Public

Vaughan City Council is committed to overseeing the provision of responsive and accessible services including dealing with reasonable inquiries and requests for information in a timely manner. On occasion, an individual citizen may not be accepting of the response and may restate the inquiry in various ways, or may be rude or harassing in their delivery of the inquiry. There is a need to balance access to information against the need to protect the legitimate interests of the City; the need to respect approved policies and procedures of the City within civil and respectful discourse; and the need to respect the role of officers and employees of the municipality.

Members of Council who receive requests for information or inquiries from members of the public, City staff or other Members of Council may be guided by Protocol 03.26 "Response by City Staff to Requests for Information from the Public". In addition, complaints regarding staff may be forwarded to the appropriate City Commissioner or the City Manager.

This Code does not require Members of Council to provide a response to an inquiry or request for information that is frivolous or vexatious, unreasonable or harassing.

For example:

- the Member of Council is of the opinion on reasonable grounds that the inquiry is made for a purpose other than to obtain information;
- the inquiry has been made more than once and is being used for the purpose of revisiting an issue that has been previously addressed;
- the inquiry is articulated in such a way that it can be considered harassing or abusive;
- the Member is of the opinion, on reasonable grounds, that providing a response would interfere with the operations of the City;
- the inquiry is not an inquiry but rather a complaint.

Communication labelled "Private" and/or "Confidential" may be shared or disclosed as necessary or appropriate, taking into consideration the following:

- information may be disclosed to appropriate staff in order to respond to the issue or concern being communicated;
- information will not be treated as confidential where the communication was shared by the requestor or not made in a confidential manner (copied to others, or made in the presence of others);
- if the information is needed by an officer, employee, consultant or agent of the City who needs the information in the performance of her or his duties and if the information is necessary and proper in the discharge of the City's functions.

Commentary

As public officials, Members recognize the public's right to reasonable access to information in relation to how decisions are made. This right of access includes the right of the public to receive complete and understandable information which must be balanced against the requirement to protect the legitimate interests of the City and the respect for approved policies of the City.

- c) **Members shall avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real. Members shall not extend, in their discharge of their Official Duties, preferential treatment to Family Members, organizations or groups in which they or their Family Member have a pecuniary interest, which pecuniary interest is known to the Member.**

Commentary

As a result, Members will have a common understanding that they will not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual. Members recognize that their actions are governed by the *Municipal Conflict of Interest Act*. The Integrity Commissioner will distinguish between a *Code* conflict, which may be both apparent and real and which may be in respect of a Family Member as defined by the *Code*, and a pecuniary interest under the *Municipal Conflict of Interest Act* in respect of sections 1.1, 2 and 3 of the *Municipal Conflict of Interest Act*.

In addition, it is recognized that while Members are political representatives, they are also private citizens. Accordingly, Members may, in their capacity as private citizens, choose to endorse political parties. Members must take care to clarify that they do so as a private individual and must not be seen as using their office to endorse political candidates for election.

- d) **Members shall avoid any interest in any contract made by him/her in his/her official capacity and shall not contract with the City or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.**
- e) **Members shall not engage in the management of a business carried on by a corporation nor profit directly or indirectly from a business, including but not limited to a corporation, that does business or has contracted with the City of Vaughan, or hold an office or directorship, unless holding the office or directorship is in a social club, religious organization, other charitable organization or corporations with shares directly or indirectly held by the municipality.**
- f) **Approved exceptions**
A Member may engage in an activity prohibited by clause 1(e) if the following conditions are met:
 - 1. **The Member has disclosed all material facts to the Integrity Commissioner.**
 - 2. **The Integrity Commissioner is satisfied that the activity, as carried on in the specified manner, did not create a conflict between the Member's private interest and public duty.**
 - 3. **The Integrity Commissioner has given the Member his or her approval and has specified the manner in which the Member of Council may remedy the situation.**
 - 4. **The Member remedies the situation in the manner specified by the Integrity Commissioner**

Commentary

Members must adhere to the City's purchasing policies and pay careful attention to the Councillors' expense policies. Examples of exceptions include, hospital boards and other not-for-profit organizations and charities.

- g) **Members shall perform Official Duties and arrange their public affairs in a manner that promotes public confidence and respect and will bear close public scrutiny; and**

Commentary

Members shall not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual member of the public.

- h) Members 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, Ontario Legislature, and the City Council.**

Commentary

A number of the provisions of this *Code* incorporate policies, procedures and provisions adopted by Council and contained in various statutes. The provisions of this *Code* are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour.

- i) Members shall fulfill their roles as set out in the *Municipal Act* and respect the role of staff in the administration of the business affairs of the City.**

Commentary

Members recognize that the decision-making authority for the municipality lies with Council, not an individual Councillor and that it is the role of the officers and employees of the municipality to implement council's decisions and establish administrative practices and procedures to carry out council's decisions. Members recognize and respect the role of City staff and affirm that only Council as a whole has the capacity to direct staff members. Council as a whole must be able to access information, on a need to know basis, in order to fulfill its decision-making duties and oversight responsibilities [...]. Individual Members also recognize that the information that they receive as members of the decision-making body of Council, or a local board, is subject to the confidentiality and disclosure rules of Provincial and Federal statutes and City of Vaughan bylaws. (See Rule No. 3 on Confidential Information and Rule No. 16 on Conduct Respecting Staff).

Rule No. 2

Gifts and Benefits:

1. No Member shall accept a fee, advance, gift, loan, or personal benefit that is connected directly or indirectly with the performance of his or her duties, except as specifically contemplated.

For these purposes, a fee or advance paid to or a gift or 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. Set out below are recognized as exceptions to Rule 2, which apply to Members of Council only; Members of local boards are not permitted to accept any gifts and benefits:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law;
- (d) services provided without compensation by persons volunteering their time to a Member;
- (e) a suitable memento of a function honoring the Member (e.g. a trinket or favour of relatively little monetary value such as pen, notepad, t-shirts);
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;
(for greater certainty of item f, where Council has authorized or endorsed an initiative or event, this would be considered an official event.)
- (g) food and beverages consumed at banquets, receptions or similar events, for charitable, not for profit and community purposes, if:
 1. attendance serves a legitimate public duty purpose; and
 2. the value is reasonable and the invitations infrequent.
- (h) business meals;
- (i) communication to the offices of a Member, including subscriptions to newspapers and periodicals related to the duties of Office.
- (j) Sponsorships and donations for community events or initiatives organized or run by a Member of Council or a third party on behalf of a Member where Council has authorized or endorsed the event or initiative.

(for greater certainty of item j, for Member-organized community events or initiatives, Members should be transparent in their dealings with the public and should not handle any funds on behalf of any organizations and should remain at arms length from the financial aspects of these events and initiatives.)

Rule #2 Part 1(j) does not affect the entitlement of a Member of Council to:

- i. Use her or his office expense budget to run or support community events subject to the terms of the Councillor Expense Policy;
- ii. Urge constituents, businesses and other groups to support community events put on by others in the Member's Ward or elsewhere in the City;
- iii. Play an advisory or membership role in any organization that holds community events in the Member's Ward; and
- iv. Collaborate with the City of Vaughan and its agencies to hold community events.

Members of Council are strongly encouraged to document all gifts and benefits they receive. As indicated above, Members of local boards are not permitted to receive any gifts or benefits.

With respect to Members of Council, in the case of categories (b), (e), (f), (g) (h), and (i), where the value of the gift or benefit exceeds \$750 , or if the total value received from any one source during the course of a calendar year exceeds \$750, the Councillor shall, within 30 days of receipt of the gift or reaching the annual limit, list the gift or benefit on a Councillor information statement, the form of which will be prescribed by the Integrity Commissioner.

The Integrity Commissioner shall, without notice, examine from time to time the Councillor information statement to ascertain whether the receipt of a gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the Councillor.

In the event that the Integrity Commissioner makes the preliminary determination, he or she shall call upon the Member to justify receipt of the gift or benefit. Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City or City agency, board or commission. The above actions of the Integrity Commissioner do not require receipt of a Formal Complaint or that the Integrity Commissioner conduct a formal Code of Conduct investigation.

Each Member shall file a copy of their Councillor information statement with the office of the City Clerk on a quarterly basis (the first quarter being April 30th of the calendar year) and the statements shall be a matter of public record.

Commentary:

Gifts and benefits are often received by Members of Council in the course of their duties, and attendance at public functions is expected and considered part of their role. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits, where the total value may be perceived as potentially influencing decision making.

Personal integrity and sound business practices require that relationships with vendors, contractors, or others doing business with the City, be such that no Member of Council is perceived as showing favoritism or bias toward the vendor, contractor or other. Each Member of Council is accountable to the public and should keep a list of all gifts received from individuals, firms or associations (with estimated values) in their constituency offices for review by Integrity Commissioner, as he/she deems appropriate. However, for Members of Council, those gifts or benefits that exceed \$750 or the annual limit of \$750 for one source, shall be kept on a form prescribed by the Integrity Commissioner and filed with the office of the City Clerk on a quarterly basis.

Gifts that are subject to listing on the Member of Council information statement can be many types of things, and may include:

- property (e.g. a book, flowers, a gift basket, a painting or sculpture, furniture, wine);
- use of property or facilities (e.g. a vehicle, an office, a cottage) at a reduced rate or at no cost;
- membership in a club or other organization (e.g. a golf club) at a reduced rate or at no cost;
- an invitation to and/or tickets to attend an event (e.g. an athletic commercial event, concert, a play) at a reduced rate or at no cost;
- an invitation to attend a gala or fund-raising event at a reduced rate or at no cost.

An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member's duties of Office (i.e. for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is considered to be the fulfillment of an official function or duty.

There are a range of expenses that support a Councillors' role in community development and engagement activities in their ward.

For MPPs, these expenses are generally paid for by caucus funds. This is not the case for municipal Members of Council. The section of the Councillor Expense Policy that deals with Community Expense-Events will indicate allowable expenses for reimbursement and provide for Members of Council to include certain community expenses related to a Member's role in community development as allowable expenditures from their office expense budget. However, gaming tickets during charitable functions, such as raffle tickets, table prize tickets, etc. should not be eligible for reimbursement.

Lobbying of public office holders is a permissible but is a regulated activity in the City of Vaughan. Lobbying is defined and regulated by By-law Number 165-2017 (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct). Members are public office holders. As a matter of general principle, as public office holders, Members should be familiar with the terms of the lobbying by-law inclusive of the Lobbyist Code of Conduct. If a Member is or at any time becomes aware that a person is in violation of the Lobbyist Code of Conduct or registration regime, the Member should draw that person's attention to the obligations imposed by the Lobbying By-law and Lobbying Code of Conduct. A Member should report any such violation or attempted violation of Lobbying By-law to the Lobbyist Registrar.

- 2. Expenses incurred by Members working during normal meal periods serve a legitimate public duty purpose, provided that the expenses incurred are reasonable and appropriate in the circumstances. Reasonable and appropriate expenses are those that:**
 - a. Are incurred for an official duty or function;**
 - b. Are modest, representing a prudent use of public funds;**
 - c. Do not involve alcoholic beverages**

In general, working meals are to be provided in-house.

Commentary

Rule #2 must be considered with and balanced against the principle contained expense policies in all Ontario municipalities, which is that Members are entitled to be reimbursed for expenses that are legitimately and appropriately incurred for an official duty or function and which are reasonable and prudent expenses and use of public funds in the circumstances. In making a determination of what constitutes a modest and prudent use of public funds, Members should consider the dollar amounts set in Policy CL-012 – Council Members Expense Policy, as amended.

Given the heavy demands on Members' schedules in the performance of their duties and Functions, there are legitimate circumstances that require business meetings over a meal period and result in the Member working through his or her normal meal periods.

As representatives of the municipal government, Members will be expected or required to extend hospitality to external parties as part of their Official Duties and Functions. This *Code* recognizes that through adherence to the current and proposed rules of the City's Councillor Expense Policy, it is legitimate for Members to incur hospitality expenses for meetings, examples of which include:

- a. Engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;
- b. Providing persons from national, international and charitable organizations with an understanding and appreciation of the City of Vaughan or the workings of its municipal government;
- c. Honouring persons from Vaughan in recognition of exceptional public service.

This *Code* recognizes that the current and proposed City of Vaughan Councillor Expense Policy, holds legitimate that Members of Council will be reimbursed or have their office budgets charged for expenses that are incurred while extending hospitality to an external party, including hospitality that takes place in the course of travelling on a duty or function or a Member of Council provided the expenses are reasonable and appropriate in the circumstances.

Reasonable and appropriate expenses are expenses that strike a balance between economy (the expenses represent a prudent use of public funds) and proportionality (the expenses represent what is customary for such functions).

Wherever possible, Members should utilize City-owned facilities and resources that are appropriate to the function.

- 3. This Code recognizes that as community leaders, Members of Council may lend their support to and encourage, community donations to registered charitable and Not for profit groups. Monies raised through fundraising efforts shall go directly to the groups or volunteers and chapters acting as local organizers of the group. This Code**

recognizes the important work of Members of Council in supporting charitable causes and the need for transparency in Members' involvement.

This Code sets the following guiding principles for Members of Council:

- (a) Members of Council should not directly or indirectly manage or control any monies received relating to charitable organization's fundraising.
- (b) A Member of Council or a third party acting on behalf of the Member shall neither solicit nor accept support in any form from an individual, group or corporation with any pending planning, conversion, or demolition variance application before Vaughan City Council.
- (c) With reference to Member- Organized Community Events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event.
- (d) Where a Member of Council sponsors and/or lends support to a charitable organization's event, this Code recognizes that all donations are subject to the *Code of Ethical Conduct* and CL-012 – Council Members Expense Policy.
- (e) No donation cheques should be made out to a Member of Council.

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

- i. Use her or his office expense budget to run or support community events subject to the terms of the Policy CL-012 – Council Members Expense Policy section relating to Community Expense Hosting Events by Council Members;
 - ii. urge constituents, businesses and other groups to support community events and advance the needs of a charitable organization put on by others in the Member's Ward or elsewhere in the City;
 - iii. play an advisory or membership role in any organization that holds community events in the Member's Ward; and
 - iv. collaborate with the City of Vaughan and its agencies to hold community events.
- (f) Members of Council should not handle any funds on behalf of any charitable organization or Community group and should remain at arms length from the financial aspects of these community and external events.

Rule No. 3

Confidential Information:

1. **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.**
2. **No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.**
3. **No Member shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.**
4. **No Member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.**
5. **No Member shall permit any persons other than those who are entitled thereto to have access to information that is confidential.**
6. **No Member shall 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.**

Commentary:

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, such as under Access and Privacy legislation. Such legislation imposes mandatory or discretionary restrictions on disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, personal information about an individual disclosure of which would constitute an unjustified invasion of privacy, and information that is subject to solicitor-client privilege. Where it is clear that a communication was not made in a confidential manner (i.e. copied to others or made in the presence of others) or the manner of communication undermines the validity of labeling it 'confidential', such communication will not be given any higher level of confidentiality than any other communication. The words 'privileged', 'confidential', or 'private' will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.

For the purposes of the *Code of Ethical Conduct*, "confidential information" may also include 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, to remain confidential.

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

Requests for information should be referred to appropriate staff to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

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

- the security of the property of the municipality or local board;
- personal information about an identifiable individual, including municipal or local body employees;
- a proposed or pending acquisition or disposition of land by the municipality or local board;
- labour relations or employee negotiations and personnel matters.
- litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
- items under contract negotiation
- price schedules in contract tender or Request For Proposal submissions

- statistical data required by law not to be released (e.g. certain census or assessment data)

Rule No. 4

Use of City Property, Services and Other Resources

No Member shall use for personal purposes any City property, equipment, services, supplies or services of consequence (for example, agency, board, commission, or City-owned materials, websites, board and City transportation delivery services, and any Members expense budgets) other than for purposes connected with the discharge of City duties, which may include activities within the Member's office of which City Council has been advised.

No Member shall obtain financial gain from the use of City developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the City of Vaughan.

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

Commentary:

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their City duties as public officials. This privilege should not be seen to be abused. In recognizing that Members are held to a higher standard of behavior and conduct, Members should not use such property for any purpose other than for carrying out their Official Duties. Careful attention should be given to the provisions of the City's Councillor expense policy which identifies approved allowable expenses.

During election campaigns, refer to Rule No. 5 and 7.

Rule No. 5

Election Campaign Work:

- 1. Members of Council are required to follow the provisions of the *Municipal Elections Act, 1996*.**

Commentary

Although the Integrity Commissioner of the City of Vaughan does not have jurisdiction to receive or investigate complaints regarding alleged contraventions of the *Municipal Elections Act*, the Integrity Commissioner shall forward any information regarding a potential breach of the *Municipal Elections Act* by a Member of Council, directly to the City Clerk.

- 2. No Member shall use the facilities, equipment, supplies, services or other resources of the City for any election campaign or campaign-related activities.**

- 3. No Member shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the City.**

Commentary

Paragraph 2 of Policy CL-008 – Permitting of City Facilities by Members of Council and Registered Candidates provides as follows: “Given that the Municipal Elections Act prohibits the use of corporate resources for election-related purposes, in a municipal election year, commencing on June 30th until the date of the election, Members of Council may not book directly, or indirectly, any City facility for any purpose that might be perceived as an election campaign purpose.”

Special attention should be given to section 10.0 of Policy CL-012 Council Member Expense Policy – Election Year Expenses.

Rule No. 6

Business Relations

- 1. No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.**
- 2. No Member shall act as a paid agent before Council or a committee of Council or any agency, board, or committee of the City.**
- 3. No Member shall refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.**
- 4. If a Member becomes aware that an entity for which the Member has a material interest (or is a director or employee), may offer or provide goods, consulting or other services to the City, the Member will seek advice from the Integrity Commissioner about the application of the *Municipal Conflict of Interest Act* and whether, in consideration of the circumstances, membership is in the best interests of City. In providing this advice, the Integrity Commissioner will consider the risk of harm to the reputation of the Council.**
- 5. Members will comply section 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, as amended from time to time.**
- 6. Declarations of pecuniary interests known to Members shall be recorded in the minutes of Committee and Council meetings. In the event that Member declares an interest during Closed Session, the Member shall affirm their declaration of interest at the beginning of the Open Session as noted on the agenda.**

Commentary

Members are mindful to avoid any activity that may give rise to consideration of personal gain

as a result of holding public office.

Rule No. 7

Improper Use of Influence:

- 1. No Member shall use the influence of her or his office for any purpose other than for the exercise of her or his Official Duties.**

Commentary

Pursuant to corporate policy, the City Manager directs Deputy City Managers, who in turn, direct City staff. City Council and not individual Members of Council appropriately give direction to the City administration. This provision relates not only to the Member's actions in respect of City staff, but also in other ways as determined by the Integrity Commissioner in the course of conducting an inquiry.

Examples of prohibited conduct include: the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, or one's Parents, Child or Spouse, Staff, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of others as part of their Official Duties as a Member. Also prohibited is the holding out of the prospect or promise of future advantage through a Member's supposed influence within the local board or at the City, in return for present actions or inaction.

Rule No. 8

Conduct At Council Meetings and Local Board Meetings

- 1. Members shall conduct themselves at meetings with decorum. Respect for deputants and for fellow Members and staff requires that all Members show courtesy and not distract from the business of the Council or local board during presentations and when other Members have the floor.**

Commentary

A Member recognizes the importance of cooperation and strives to create an atmosphere during Council, Committee, and local board meetings that is conducive to solving the issues before Council or the local board, listening to various point of view and using respectful language and behavior in relation to all those in attendance.

Rule No. 9

Transparency & Openness in Decision Making and Member's Duties

- 1. Members shall endeavour to conduct and convey City business and all their duties in an open and transparent manner (other than for those decisions which by virtue of legislation, Council Members are authorized to be dealt with in a confidential manner in closed session), so that stakeholders can view the process and rationale which was used to reach decisions, and the reasons for taking certain actions.**

Commentary

Various statutes, City by-laws, policies and procedures, as well as, decisions of courts and quasi-judicial tribunals form the basis of decisions made by City Council. Unless prohibited by legislation of by-law, Members should clearly identify to the public how a decision was reached and upon which law, procedure and policy their decision was based.

Rule No. 10

Media Communications

1. **Members will accurately communicate the decisions of Vaughan's Council and local boards, even if they disagree with the decision, so that there is respect for and integrity in the decision-making processes of Council and local boards.**

Commentary

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

Rule No. 11

Representing the City

- 1. Members shall make every effort to participate diligently in the activities of the Committees, agencies, boards, commissions and advisory committees to which they are appointed.**

Commentary

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

To participate diligently means that a Member shall not be absent from Council, agencies, boards and commissions meetings without reasonable justification (e.g. illness of Member or special family circumstance) for more than three consecutive scheduled meetings or on a regular basis.

Rule No. 12

Conduct Respecting Current and Prospective Employment:

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

Rule No. 13

Encouragement of Respect for the City and Its By-Laws

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

Commentary

A Member must not denigrate a City by-law in responding to a citizen, as this undermines confidence in the City and the rule of law.

Rule No. 14

Harassment

- 1. Members shall be governed by the City's Respectful Workplace Policy.**
- 2. Harassment by a Member of another Member, Staff, or any member of the public, is misconduct.**
- 3. Upon receipt of a complaint that relates to Rule No. 14, the Integrity Commissioner may forward the information subject of the complaint to Human Resources who will refer it to an independent investigator.**

Commentary

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

The City of Vaughan's Respectful Workplace Policy (Harassment and Discrimination) ensures a safe and respectful workplace environment and appropriate management of any occurrences of harassment and discrimination as defined by the policy.

The City of Vaughan Policy applies to Members and will provide guidance to the independent investigator. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall utilize the investigator's findings to make a determination on the application of the *Code of Ethical Conduct* and the merits to an investigation on the ethical conduct of the Member subject of the complaint.

Rule No. 15

Discreditable Conduct

- 1. Members shall conduct themselves with appropriate decorum at all times.**

Commentary

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

All Members of Council and local boards have a duty to treat members of the public, one another, and Staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.

Rule No. 16

Conduct Respecting Staff:

- 1. No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.**
- 2. No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.**
- 3. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.**

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

Commentary

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

Members of Council must recognize that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions as provided in the *Municipal Act*. The Administration, under the direction of the City Manager, serves the Council as a whole, and the combined interests of all Members as expressed through the resolutions of Council. An individual Member should not request staff to undertake extensive work or prepare lengthy reports, other than pursuant to a Council direction.

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

Rule No. 17

Employment of Council Relatives/Family Members

- 1. No Member shall attempt to influence the outcome, or to influence any City employee to hire or promote a Member's family.**
- 2. No Member shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any member of his or her Family.**
- 3. No Member shall supervise a Family Member or be placed in a position of influence over a Family Member.**
- 4. No Member shall attempt to use a family relationship for his or her personal benefit or gain.**
- 5. Every Member shall adhere to the City's nepotism policy.**

Commentary:

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

Rule No. 18

Failure to Adhere To Council Policies and Procedures:

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

Commentary

A number of the provisions of this *Code of Ethical Conduct* incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by City Council.

Members of Council must pay special attention to, and comply strictly with, the Councillors Expense Policy.

This provision does not prevent a Member of Council from requesting that Council grant an exemption from a policy.

Rule No. 19

Reprisals and Obstruction:

- 1. No Member shall obstruct the Integrity Commissioner in the carrying out of her or his responsibilities.**
- 2. No Member shall threaten or undertake any act of reprisal against a person initiating an *inquiry or complaint* under the *Code of Ethical Conduct* or who provides information to the Integrity Commissioner in any investigation.**

Commentary

Members should respect the intent of the *Code of Ethical Conduct* and investigations conducted under it. It is also a violation of the *Code of Ethical Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or

the erasing of electronic communications or refusing to respond in writing to a formal complaint lodged pursuant to the Complaint Protocol passed by Council.

Rule No. 20

Compliance with the *Code of Ethical Conduct*:

Members of Council

1. Upon receipt of the Integrity Commissioner's recommendations, and where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, Council may impose the following penalties on a Member of Council:
 - a) A reprimand; or
 - b) Suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council for a period of up to 90 days.
2. Where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, the Integrity Commissioner may also recommend that Council take other remedial actions. Such remedial actions must be measures which are intended to address the violation and the effects of the violation. Such remedial actions may include but are not limited to the following:
 - a) Requiring repayment or reimbursement of moneys received by the Member.
 - b) Requiring the return of property, or reimbursement of its equivalent monetary value, received by the Member.
 - c) Requiring a written and/or verbal apology from the Member to Council, the complainant, or both.
 - d) Removal from membership of a Committee (if applicable) where, due to the Member's violation of the *Code of Ethical Conduct*, it would no longer be appropriate for the Member to sit on the Committee.
 - e) Removal as Chair of a Committee (if applicable) where, due to the Member's violation of the *Code of Ethical Conduct*, it would no longer be appropriate for the Member to chair the Committee.

3. Upon Council's decision on the Integrity Commissioner's recommendations, the Member whose has violated the *Code of Ethical Conduct* shall comply with Council's decision. Failure to comply with Council's decision shall constitute a contravention of this Code.

Members of Local Boards

1. Upon receipt of the Integrity Commissioner's recommendations, and where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, in the case of a Member of a local board, Council may impose the following penalties:
 - a) A reprimand;
 - b) Suspension of the remuneration paid to the Member in respect of his or her services as a Member of a Local Board for a period of up to 90 days; or
 - c) Removal from the Local Board.
2. Where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, the Integrity Commissioner may also recommend that Council take other remedial actions. Such remedial actions may include but are not limited to the following:
 - a) Requiring repayment or reimbursement of moneys received by the Member.
 - b) Requiring the return of property, or reimbursement of its equivalent monetary value, received by the Member.
 - c) Requiring a written and/or verbal apology from the Member to Council, the complainant, the local board, or any/all of these parties.
 - d) Removal from membership of a Committee (if applicable).
 - e) Removal as Chair of a Committee (if applicable).
3. Upon Council's decision on the Integrity Commissioner's recommendations, the Member whose has violated the *Code of Ethical Conduct* shall comply with Council's decision. Failure to comply with Council's decision shall constitute a contravention of this Code.

Commentary

Members of Council are accountable to the public through the election process. Between elections they may, for example, become disqualified and lose their seat if 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*.

In addition, the *Municipal Act* authorizes Council to impose either of two penalties on a Member following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Ethical Conduct*. For clarity, the Integrity Commissioner is not limited to the actions listed in 2 (a-e) above.

In the case of Members of local boards, these Members serve at the pleasure of Council. Accordingly, where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, Council has a broader range of disciplinary measures that may be taken.

Rule No. 21

Implementation

- 1. Members are expected to formally and informally review their adherence to the provisions of the *Code* on a regular basis or when so requested by the Integrity Commissioner.**
- 2. At the beginning of each term, Members will be expected to sign two copies of the *Code of Ethical Conduct*.**
- 3. At the beginning of each term, each Member of Council shall meet with the Integrity Commissioner.**
- 4. At the beginning of each term, each Member of Council shall file an explanatory statement of all community organizations in which they participate, in the form provided by the Integrity Commissioner, within 60 days of being elected or appointed. Thereafter, each Member of Council shall file or update their disclosure statement, once in every calendar year on the date established by the Commissioner.**
- 5. Councillors and members of the public should not assume that any unethical activities not covered by or not specifically prohibited by these ethical standards of conduct, or by any legislation, are therefore condoned.**

Commentary

At the beginning of each term, Members of Council will be expected to sign two copies of the *Code of Ethical Conduct* (one for themselves and one for the Clerk's Office) to convey to each other and all stakeholders that they have read, understand and accept it.

A *Code of Ethical Conduct* component will be included as part of the orientation workshop for each new Council.

Attachment 2
COMPLAINT PROTOCOL
FOR THE CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

Authority: *Municipal Act, 2001*, S.O. 2001, (as amended) CHAPTER 25 and as adopted by Council at its meeting held on _____, 2019.

1. Until such time as a new/revised *Council Code of Ethical Conduct* is adopted, only complaints relating to behaviour or activity occurring subsequent to March 1, 2019 will be addressed by this procedure.
2. After December 31, 2008 all complaints must be addressed in accordance with the below captioned procedure within six (6) months of the alleged violation or no action will be taken on the complaint.
3. Defined terms used but not defined in this Complaint Protocol shall have the same meaning as set out in the *Code of Ethical Conduct for Members of Council and Local Boards* (the "Code of Conduct").

PART A: INFORMAL COMPLAINT PROCEDURE

4. Individuals (including City employees, members of the public, Members of Council or local boards) who identify or witness behaviour or activity by a Member that appears to be in contravention of the Code of Conduct, or sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* ("MCIA") in the case of Council Members, may address the prohibited behaviour or activity themselves as follows:

- (i) Advise the Member that the behaviours or activity appears to contravene the Code of Conduct, or section 5, 5.1 or 5.2 of the MCIA in the case of Council Members;
- (ii) Encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
- (iii) Document the incidents including dates, times, locations, other persons present, and any other relevant information. Request that the Integrity Commissioner assist in the informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. If applicable, confirm to the Member your satisfaction with the response of the Member; or, if applicable, advise the Member of your dissatisfaction with the response; and

At the earliest possible juncture, the Member whose behaviour is complained of will be advised of an inquiry to the Integrity Commissioner under the Informal Complaint Procedure, and any complainant will be so advised;

- (iv) Pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

Individuals are encouraged to pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that they believe violates the Code of Conduct. The informal complaint procedure will not apply to complaints against Members in respect of section 5, 5.1 or 5.2 of the MCIA. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint. However, it is not a precondition or a prerequisite that those complaining to pursue the informal complaint procedure prior to pursuing the formal complaint procedure in Part B. The Integrity Commissioner will assess the suitability of the informal complaint process for settlement or resolution on an ongoing basis and may at any time decline to continue participation in the process. The complainant or the respondent can decline to participate in the informal complaint process at any time. The informal complaint procedure is an informal process, and the Integrity Commissioner will not perform an official investigation nor provide a public report, even if the parties agree to involve the Integrity Commissioner in this informal process.

PART B: FORMAL COMPLAINT PROCEDURE

Formal Complaints

5. Electors and individuals acting in the public interest (including City employees, members of the public, and Members of Council or local boards) who identify or witness behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct, or sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members, may file a formal complaint with the required information on the proscribed affidavit (see page 6 of this procedure):
 - (i) All complaints must be made on the Complaints Form/Affidavit and shall be dated and signed by an identifiable individual;
 - (ii) The complaint must include an explanation for why the issues raised may be a contravention of Code of Conduct or the MCIA. Evidence in support of the allegation must also be included;
 - (iii) Witnesses in support of the allegation must be named on the complaint form;

- (iv) The Integrity Commissioner will provide a summary of the complaint to the respondent and to others who may be involved in carrying out this procedure;
- (v) The complaint form/affidavit must include the name of the alleged violator, the provision of the Code of Conduct or MCIA allegedly contravened, facts constituting the alleged contravention, the names for the complainant during normal business hours;
- (vi) Receipt of formal complaints will be acknowledged in writing;
- (vii) If the complaint relates to an alleged violation of sections 5, 5.1, or 5.2 of the MCIA, the complaint must be made within six weeks after the applicant became aware of the alleged contravention. The complainant must also provide a statutory declaration to this effect in their application.

Filing of Complaint and Classification by Integrity Commissioner

6. (i) The complaint shall be filed with the City Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct, or sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members, and not covered by other legislation or other Council policies as described in subsubsection 3. The Integrity Commissioner shall make a decision regarding classification within 30 days of receiving the complaint from the City Clerk.
- (ii) If the complaint is not in the prescribed form, the Integrity Commissioner may defer the classification until a Complaint Form/Affidavit is received.

NOT A VIOLATION

- (iii) If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct, or sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members, or the complaint is covered by other legislation or complaint procedure under another Council policy, the Integrity Commissioner shall advise the complainant in writing as follows:

CRIMINAL MATTER

- (a) If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code* of Canada, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate Police Service.

MUNICIPAL CONFLICT OF INTEREST ACT

- (b) If the complaint on its face is with respect to non-compliance with the *Municipal Conflict of Interest Act*, save an except sections 5, 5.1, and 5.2, the complainant shall be advised to review the matters with the complainant's own legal counsel.

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- (c) If the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the City Clerk for Access and Privacy Review.

OTHER POLICY APPLIES

- (d) If the complaint seems to fall under another policy, the complainant shall be advised to pursue the matter under such policy.

LACK OF JURISDICTION

- (e) If the complaint is, for any reason not within the jurisdiction of the Integrity Commissioner, the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

MATTER ALREADY PENDING

- (f) If the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, Human Rights complaint or similar process, the Integrity Commissioner may, in his/her sole discretion suspend any investigation pending the result of the other process.

- (g) If the Integrity Commissioner has already reviewed and rendered a decision or has investigated the matter subject of the complaint, the complainant will be advised that the matter cannot be further pursued through the Code complaint process

INDIVIDUAL NOT ACTING IN THE PUBLIC INTEREST

- (h) If the Integrity Commissioner is of the opinion that the individual making the complaint is not acting in the public interest, the complainant shall be so advised, and the Integrity Commissioner shall not conduct an investigation. In assessing whether a complainant is acting in the public interest, the Integrity Commissioner shall consider: (i) whether the complainant is advancing a concern, issue or complaint that involves an issue of importance to some or all citizens of Vaughan rather than a private interest which is mainly of interest to the affected parties; and (ii) whether the complaint is vexatious, frivolous, or unreasonably persistent, as set out in the City of Vaughan's Vexatious and Frivolous Complaints Policy. The Integrity Commissioner may also consider any other relevant facts in assessing whether a complainant is acting in the public interest.

Investigation

7. (i) Where the Integrity Commissioner determines that an investigation is warranted, he/she will proceed as follows, except where otherwise required by the *Public Inquiries Act*, 2009, S.O. 2009, c. 33, Sched. 6:
- a. Give the complaint to the Member whose conduct is in question with a request that a written response to the allegation be provided within ten days; and
 - b. Give a copy of the response provided to the complainant with a request for a written reply within ten days.
- (ii) 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 City work location relevant to the complaint for the purpose of investigation and potential resolution.
- (iii) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances or interference, obstruction, delay or retaliation encountered during the investigation.
- (iv) If the Integrity Commissioner is of the opinion that the referral of a matter to him/her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, and where this becomes apparent in the course of an investigation, terminate the investigation.

Opportunities for Resolution

8. Following receipt and review of a formal complaint, or at any time during the investigation, where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

No Complaint Prior to Election

9. (i) Notwithstanding any other provisions of this Protocol, no complaint may be referred to the Integrity Commissioner, or forwarded by the Clerk for review and/or investigation between the regularly scheduled nomination day and voting day in any year in which a regular municipal election will be held.
- (ii) If the Commissioner has not completed an inquiry before nomination day for a regular election the Commissioner shall terminate the inquiry on nomination day.
- (iii) If an inquiry is terminated in accordance with section 12(ii), the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election the person who made the application or the Member or former Member whose conduct is concerned applies in writing to the Commissioner for the inquiry to be carried out.
- (iv) Where an inquiry has been terminated, and the complainant or former Member has requested the inquiry be carried out, the Integrity Commissioner shall be permitted to use any information and evidence obtained prior to the termination. If no request is made to carry out the inquiry, no review or investigation shall be made

Reporting on Code of Conduct Investigations

10. (i) The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the receipt of the Complaint Form/Affidavit of the complaint. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties the date the report will be available.

(ii) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement, or recommended corrective action. Where the complaint is not sustained, the Integrity Commissioner shall report to Council the result of the investigation.
11. (i) Where the Integrity Commissioner reports to Council that in her or his opinion, there has been a violation of the Code of Conduct, the municipality may impose penalties and remedial actions in accordance with the *Municipal Act* and the Code of Conduct. The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any respondent unless the respondent has had notice of the basis for the proposed finding and any recommended sanction or remedial action, and an opportunity either in person or in writing to comment on the proposed findings.

(ii) If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act* and the Code of Conduct.

(iii) The Integrity Commissioner shall give a copy of the report to the complainant and the Member whose conduct is concerned.

(iv) Upon receipt of a report, the Clerk shall process the report for the next meeting of Council's Committee of the Whole.

Reporting on MCIA Investigations

12. (i) The Integrity Commissioner shall complete his/her investigation into alleged contraventions of sections 5, 5.1, or 5.2 of the MCIA within 180 days after the receipt of the Complaint Form/Affidavit. However, this section does not apply if the investigation is terminated in accordance with section 223.4.1(12) of the *Municipal Act*.

(ii) If, upon completion of the investigation, the Integrity Commissioner determines that on a balance of probabilities there has been a violation of the MCIA, or is otherwise of the opinion that it is in the City's interest for a judge to determine if there has been a violation of the MCIA, the Integrity Commissioner may apply to a judge for such a determination. For greater certainty, nothing in this Protocol shall prevent a complainant from bringing their own application to a judge for a determination of whether there has been a violation of sections 5, 5.1, or 5.2 of the MCIA.

(iii) Upon completion of the investigation, the Integrity Commissioner shall advise the complainant whether the Commissioner will be making an application to a judge for a determination if there has been a violation of the MCIA. The Integrity Commissioner shall publish written reasons for his/her decision within 90 days of such decision. The Integrity Commissioner shall periodically report to Council on the outcome of his/her investigations of alleged MCIA contraventions.

No Reports Prior to Election

13. Notwithstanding any other provisions of this Protocol, between nomination day and voting day for a regular municipal election, the Integrity Commissioner shall not make any report to Council or to any other person about whether a Member has contravened the Code of Conduct, including sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members.

Duty of Council

14. Council shall consider and respond to the report within 45 days after the day the report is presented to it (this timeline shall be extended as necessary in the case of summer hiatus and festive closure).

Public Disclosure

15. (i) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol.

(ii) At the time of the integrity Commissioner's report to Council, and as between the parties, the identity of the Respondent shall not be treated as confidential information.

(iii) All reports from the Integrity Commissioner to Council will be made available to the public.

Please see Complaint Form/Affidavit below.

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

Page __ of __

Complaint Form/Affidavit

AFFIDAVIT OF

_____[full name]
I, _____[full name], of the [City, Town, etc.] of _____
_____[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 the
meeting at which....etc.]

2. I have reasonable and probable grounds to believe that a Member of Vaughan City Council, or a
Member of a Vaughan local board, as set out in the *Code of Ethical Conduct for Members of Council*
(the “Code of Conduct”)
_____[specify
name of member], has contravened section(s) _____[specify section(s)] of the
Code of Conduct or sections 5, 5.1, or 5.2 of the *Municipal Conflict of Interest Act* in the case of Council
Members. 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. If you are submitting a complaint in
respect of sections 5, 5.1, or 5.2 of the *Municipal Conflict of Interest Act*, please be aware that your
affidavit must include a statutory declaration in accordance with section 223.4.1(6) of the *Municipal Act*]

Please see attached Schedule A _____ (check if applicable)
1. This affidavit is made for the purpose of requesting that this matter be reviewed 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. _____)

Page__ of__

Schedule A
(Additional Information)

To the affidavit required under subsection 5 of The Formal Complaint Procedure
[If more than one page is required, please photocopy this blank page and mark each additional page as 2
of 2, 2 of 3, etc. at the top right corner.]

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slightly textured appearance and is set against a dark background.

This Schedule A referred to in the affidavit of _____ [full name]
Sworn [or Affirmed] before me on this _____ day
of _____, _____.

A Commissioner for taking affidavits, etc.