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CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARD

CITY OF THOROLD

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THE CORPORATION OF THE CITY OF THOROLD CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

1.0 Application and Purpose

1.1 This Code of Conduct applies to all Members of the Council of the City of Thorold, including the Mayor and, unless specifically indicated, with necessary modifications, to all of the City's committees, agencies, boards and commissions, which comprise and are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*.

1.2 The purpose of this Code of Conduct is to establish a general standard to ensure that all Members share a common basis for acceptable conduct, and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedure By-law and other sources of applicable law, including but not limited to:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*

2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the City by its Members as duly elected or appointed public representatives to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve and be seen to serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office and act without self-interest;
- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
- Members shall be cognizant that they are at all times representatives of the City and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the City; and
- Members shall uphold the spirit and the letter of the laws of Ontario and Canada and the laws and policies adopted by Council.

The above statements are key principles that are intended to facilitate an understanding, application and interpretation of the Code of Conduct – the principles are *not* operative provisions of the Code of Conduct and are not intended to be enforced independently as such.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) “CAO” means the Chief Administrative Officer of the City;
- (b) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (c) “City” means The Corporation of the City of Thorold;
- (d) “Clerk” means the Clerk of the City;
- (e) “confidential information” means information or records that are in the possession, in the custody or under the control of the City that the City is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedure By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under

the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;

- (f) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular matter;
- (g) “Council” means the council for the City and includes, as the context may require and with all necessary modifications, any of the City’s committees, agencies, boards or commissions, which are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*;
- (h) “frivolous” means of little or no weight, worth, importance or any need of serious notice;
- (i) “local board” means any committee, agency, board or commission of the City, which is a local board as defined in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*, and includes a joint board;
- (j) “Mayor” means the head of Council for the City;
- (k) “meeting” means a regular, special or other meeting of Council or a committee of Council where:
 - (i) a quorum of Members is present, and
 - (ii) Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of Council;
- (l) “Member” means a Member of the Council for City or a member of a local board, including a member of a joint board if appointed by the Council;
- (m) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (n) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (o) “pecuniary” means relating to or consisting of money or having financial or economic value;

- (p) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (q) “staff” means the CAO and all officers, directors, managers, supervisors and all non-union and union staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents and consultants acting in furtherance of the City’s business and interest; and
- (r) “vexatious” means troublesome or annoying in the case of being instituted without sufficient grounds and serving only to cause irritation and aggravation to the person being complained of.

4.0 General Obligations

4.1 In all respects, a Member shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the City’s Procedure By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) seek to serve their constituents in a conscientious and diligent manner;
- (e) respect the individual rights, values, beliefs and personality traits of any other person, recognizing that all persons are entitled to be treated equally with dignity and respect for their personal status regarding gender, sexual orientation, gender identity, gender expression, race, creed, religion, ability and spirituality;
- (f) refrain from making statements known to be false or with the intent to mislead Council or the public;
- (g) recognize that they are representatives of the City and that they owe a duty of loyalty to the residents of the City at all times;
- (h) accurately communicate the decisions of Council and respect Council’s decision-making process even if they disagree with Council’s ultimate determinations and rulings; and
- (i) refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

5.0 The Role of Staff

- 5.1 Individual members of Council do not have the authority of the whole of Council. Only Council as a whole has the authority to set policy or direct staff, including, but not limited to:
- i) budget approvals;
 - ii) governance processes; and iii) staff work plans.
- 5.2 Council directs the business of the City and passes by-laws, or resolutions as appropriate for decisions adopted by Council. Council has delegated responsibility to the Chief Administrative Officer (CAO) for the administration of the affairs of the City in accordance with decisions adopted by Council. This means that under the direction of the CAO, staff have the responsibility and authority to provide consultation, advice and direction to Council and to implement Council approved policy.
- 5.3 A Member shall comply with the City's Council and Staff Relationship Policy.
- 5.4 A Member shall not publicly criticize staff. Should a Member have any issue with respect to any staff member, such issue shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior.
- 5.5 A Member shall respect the role of staff in the administration of the business and governmental affairs of the City, and acknowledge and appreciate that staff:
- (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that a Member must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
 - (b) work within the administration of justice and that a Member must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, a Member shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and
 - (c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, a Member must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.
- 5.6 Staff establish administrative policies, systems, structures and internal controls necessary to implement the goals and objectives of Council. Council should

expect a high quality of advice from staff based on political neutrality and objectivity. No member shall compel any staff member to engage in activities that are contrary to the directions of Council or the policies of the City.

6.0 Business Relations

No member shall act as a paid or unpaid agent before Council, its committees or boards of the City. A member shall not refer a third party to a person, partnership or corporation in exchange for any form of payment or other personal benefit.

7.0 City Property

7.1 Council is the custodian of the assets of the City. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

7.2 By virtue of their office or appointment, a Member must not use or permit the use of the City's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the City unless they are entitled to such use equally with any other resident and have paid fair market value for such use. No Member shall seek financial gain for themselves, family or friends from the use or sale of the City's intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the City.

8.0 Gifts and Benefits

8.1 Any gift to a Member risks the appearance of improper influence. Gifts may improperly induce influence or create an incentive for a Member to make decisions on the basis of relationships rather than in the best interests of the City. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality, loan or any form of personal benefit connected directly or indirectly with the performance of his or her duties except as provided in Section 7.2. A gift, benefit or hospitality 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. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.

8.2 For greater clarity, despite Section 7.1, a Member is entitled to accept any compensation, remuneration or benefits authorized by law but shall not accept any gift or benefit other than in the following circumstances:

- (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;

- (b) a political contribution otherwise reported by law, in the case of a Member running for office;
- (c) services provided without compensation by persons volunteering their time for a charitable or non-profit event or for the Member's re-election campaign;
- (d) nominal tokens, mementos or souvenirs received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;
- (e) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or 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 as a representative of the City;
- (f) entrance fees or food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate municipal business purpose related to the normal business of the City,
 - (ii) the person extending the invitation or a representative of the organization is in attendance, and
 - (iii) the value is reasonable and the invitations are infrequent;
- (g) gifts not having a value greater than \$300;
- (h) benefits received as a door prize, raffle or similar draw at an event, conference or seminar attended by the Member; and
- (i) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

8.3 A Member who has received and accepted a gift or benefit pursuant to Section 7.2(a), (f), (g), (h) and (i) shall file a disclosure of the gift or benefit indicating the person, body or entity from which it was received together with the estimated value of the gift or benefit in accordance with the Disclosure Statement set out in Appendix "A". A Member shall provide the Disclosure Statement to the Clerk on an annual basis by March 31 for the preceding calendar year and it shall be a matter of public record.

8.4 A Member shall not seek or obtain by reason of his or her office any personal privilege or advantage with respect to municipal services not otherwise available to the general public and not connected directly or indirectly to the performance of the Member's duties.

9.0 Confidential Information

9.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the City that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council or committees of local boards. Examples of types of information that a Member must keep confidential, unless expressly authorized by Council or as required by law, include, but are not limited to:

- (a) matters related to ongoing litigation or negotiation, or that is the subject of solicitor-client privilege;
- (b) information provided in confidence, for example, the identity of a complainant where a complaint is made in confidence;
- (c) price schedules in contract tender or Request for Proposal submissions if so specified;
- (d) personnel matters about an identifiable individual;
- (e) "personal information" as defined in the *Municipal Freedom of Information and Protection of Privacy Act*;
- (f) any census or assessment data that is deemed confidential; and (g) the purchase or sale of personal or real property by the City.

9.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting. A Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Any hard copies of confidential documents received at a closed meeting are to be turned into the Clerk at the end of the closed meeting. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.

9.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the City that is relevant to matters before the Council, or a

committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the City and must follow the same processes as any private citizen to obtain such information.

- 9.4 A Member shall not misuse confidential information in any way or manner such that it may cause detriment to the City, Council or any other person, or for financial or other gain for themselves or others.
- 9.5 A Member shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, City policies, procedures and rules, ethical standards and, where appropriate, professional standards.
- 9.6 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.

10.0 Discrimination and Harassment

- 10.1 A Member shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.
- 10.2 A Member shall not use indecent, abusive, demeaning or insulting words, phrases or expressions toward any member of the public, another Member or staff. A Member shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, gender identity, gender expression, sexual orientation, marital status, family status, disability, age or record of offences for which a pardon has not been granted.
- 10.3 A Member shall comply with the City's workplace harassment and violence policy.

11.0 Improper Use of Influence

- 11.1 A Member shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.
- 11.2 A Member shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

12.0 Conflicts of Interest

- 12.1 A Member shall seek to avoid conflicts of interest, both pecuniary and nonpecuniary. A Member shall comply with the requirements of the *Municipal Conflict of Interest Act* with respect to obligations relating to pecuniary interests. A Member shall take proactive steps to mitigate any non-pecuniary conflicts of interest in order to maintain public confidence in the City and its elected officials.
- 12.2 Members are encouraged to seek guidance from the Integrity Commissioner when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other pecuniary interest or non-pecuniary interest.

13.0 Council Policies and Procedures

- 13.1 A Member shall observe and adhere to the policies, procedures and rules established from time to time by Council.

14.0 Election Activity

- 14.1 A Member is required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any of the City's policies pertaining to elections. The use of the City's resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

15.0 Respect for the Code of Conduct

- 15.1 A Member shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the City. A Member shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. A Member shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.
- 15.2 A Member shall cooperate with requests for information during any investigations or inquiries under the Code of Conduct and shall not:
- (a) interfere with or obstruct an investigation by the Integrity Commissioner;
 - (b) destroy or damage documents or erase electronic communications; or
 - (c) refuse to respond to the Integrity Commissioner where a complaint has been filed under the Code of Conduct or any process for complaints adopted by the City.

16.0 Penalties for Non-Compliance with the Code of Conduct

16.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council may impose the following penalties on the Member:

- (a) a reprimand; or
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to ninety (90) days.

16.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 15.1 on its Member, the Integrity Commissioner may report to the local board that, in his or her opinion, the Member has contravened the Code of Conduct in which case the local board may impose the penalties set out in Section 15.1.

17.0 Remedial or Corrective Actions

17.1 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following corrective or remedial actions, and require that the Member:

- (a) provide a written or verbal apology;
- (b) return property or make reimbursement of its value or of money spent;
- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council; and
- (e) comply with any other remedial or corrective action or measure deemed appropriate by the Integrity Commissioner.

17.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 15.1 on its Member or any remedial or corrective actions under Section 16.1, the local board may impose such remedial or corrective actions as are set out in Section 16.1.

18.0 Legal Fees

18.1 A Member of Council is entitled to seek the advice of the Integrity Commissioner with respect to the Member's obligations under the Code of Conduct, any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*. As such, a Member is solely responsible for his or her own legal costs

if they retain a lawyer or paralegal to provide counsel, advice or representation on any matter related to the Code of Conduct any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, including, but not limited to, an investigation and the imposition of penalties or remedial or corrective actions recommended by the Integrity Commissioner and imposed by Council.

19.0 Complaint Protocol

19.1 The Complaint Protocol is Appendix "B" to the Code of Conduct and applies to complaints and requests under the Code of Conduct and the *Municipal Conflict of Interest Act*.

APPENDIX "A" DISCLOSURE STATEMENT FOR GIFTS OR BENEFITS

Member's Name: _____

Gift Received or Nature of Benefit: _____

Received From: _____

Date of Receipt: _____ Value or Estimate of Gift: _____

Please describe the circumstances under which the Gift or Benefit was received:

Please describe your intentions with respect to the Gift or Benefit:

Do you anticipate transferring the Gift or Benefit described above to the City or the local board?

Yes, immediately _____ No _____

Member's Signature

Date