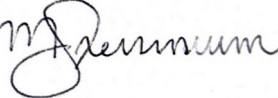




# INFORMATION REPORT

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	November 21, 2024
<b>SUBJECT/REPORT NO:</b>	Review of the Council Codes of Conduct at Other Municipalities Respecting Limiting or Prohibiting the Accepting of Gifts for Elected Officials (FCS24057) (City Wide) <b>(Outstanding Business List Item)</b>
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Janet Pilon (905) 546-2424 Ext. 4304
<b>SUBMITTED BY:</b>	Matthew Trennum City Clerk
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

Council requested that the City Clerk coordinate a review of the Council Codes of Conduct at other municipalities and report back to Audit, Finance and Administration Committee with recommendations respecting limiting or prohibiting the accepting of gifts for elected officials.

## INFORMATION

On November 23, 2023, Council approved the direction provided to staff on June 7, 2023, respecting Limiting or Prohibiting the Acceptance of Gifts in the Code of Conduct for Employees and the Council Code of Conduct for staff to perform a gap analysis of the City's policies that apply to staff and not to elected officials, as follows:

- (a) That Human Resources staff be directed to conduct a review of the Codes of Conduct for employees at other municipalities and report back to the Audit, Finance and Administration Committee with recommendations respecting limiting or prohibiting the accepting of gifts for employees;
- (b) That the City Clerk be directed to coordinate a review of the Council Codes of Conduct at other municipalities and report back to Audit, Finance and Administration Committee with recommendations respecting limiting or prohibiting the accepting of gifts for elected officials; and

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- (c) That staff be directed to perform a gap analysis of City policies that apply to staff, as employees of the corporation, and not to elected officials, who are not employees of the corporation, and report back to the Audit, Finance and Administration Committee with recommendations on how those policies could be applied to elected officials.

**General Statements, Scope, and Reporting Requirements (Other Municipalities)**

Included in Appendix A to this report, staff have provided information that describes the Council Codes of Conduct respecting Gifts and Hospitality (General Statement, Scope, Reporting Requirements) of other municipalities.

Hamilton specifically identifies fees, advances, gifts or benefits, other municipalities or regions include additional items such as loans, commissions, advances, cash, hospitality, gift certificates, bonuses, rewards, and use of vacation properties or vehicles.

With respect to the scope of the policy, many municipalities/regions, including Hamilton, mention family members and staff members. Other municipalities are more prescriptive and include “spouse,” “child,” “parent,” “friend,” etc. Hamilton includes “any other person related to the Member, or to any other person, corporation or body with whom or which the Member is associated.” No other municipalities/regions covered in the research include that additional text.

In terms of reporting requirements for accepting gifts and benefits, the threshold for reporting varies widely. Hamilton’s dollar amount is \$200. Other municipalities/regions vary widely from \$25 - \$750. The information that is required on the disclosure forms varies as well, with some municipalities requiring additional information that Hamilton does not, specifically: the estimated value of the gift, what the recipient intends to do with the gift; and whether the gift will at any point will be left with the City. Some municipalities also share this information on their websites, while some municipalities/regions require that disclosure forms be provided and reviewed by the Integrity Commissioner.

**Exceptions (other municipalities)**

Included in Appendix B to this report depicts the Council Codes of Conduct respecting Gifts and Hospitality (Exceptions) of other municipalities.

Municipalities/regions have several criteria in common, with only Waterloo Region and Hamilton permitting “(f) admission to a training or education event related to the Member’s duties and in the interest of the City, including meals and refreshments provided to all attendees”. Many do not permit “(e) admission to a charity or community

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organization for whose benefit the event is being held” while Hamilton does. A few do not permit “(k) communications to the office of a Member of Council, including subscriptions to newspapers and periodicals”. Some municipalities have additional exceptions that Hamilton and others do not, such as business meals, sponsorships and donations for community events or initiatives organized or run by a Member, gifts of a nominal value (e.g., baseball cap, t-shirt, flash drive, book, etc.).

### **Recommendations for Hamilton**

Council has asked that the Clerk report back to Audit, Finance and Administration Committee with recommendations respecting limiting or prohibiting the accepting of gifts for elected officials. While staff have conducted this research and provided some recommended changes, it is important to note that one of the Integrity Commissioner’s responsibilities is to provide advice and recommendations to Council regarding amendments to the Codes of Conduct (Council and Local Boards), and any other procedures, rules or policies governing ethical behaviours (By-Law 16-288, Section 9(5)). The Clerk, therefore, forwarded this report along with the following suggested amendments to strengthen the Council Code of Conduct to the Integrity Commissioner for their review.

The Integrity Commissioner’s responded as per Appendix ‘D’ to this report, and their suggested amendments were incorporated into the suggested amendments below.

The suggested amendments define the term “loan” and elaborate on the definition of “gift or benefit”, the types of gifts and benefits, the content of the Disclosure Statement and where the Disclosure Statements will be available to the public, and a clause that provides the member of Council with direction when a gift or benefit does not comply with the Council Code of Conduct, under Section 4: GIFTS AND BENEFITS of Council Code of Conduct, By-law 16-290, as amended:

Define the term “loan” in section 1 of the Code, as follows:

- (i) ***“loan” means delivery by a person or persons and receipt by a Member of a sum of currency upon agreement, express or implied, to repay the sum with or without interest. 1 This does not include a loan obtained in accordance with the Municipal Elections Act, 1996, SO 1996, c 32, Sched.;***

Amend section 1 of the Code, as follows:

- (g) “gift or **personal** benefit” includes any real or personal property, Currency or other thing or consideration, given, donated, transferred or otherwise conveyed to a person, unless the giver, donor, transferor or conveying person receives

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payment or other consideration of goods or property, of equal or greater monetary value to the value of what was so provided;

Amend section 4 of the Code, as follows:

4. (1) No Member shall accept a fee, advance, gift, **loan**, or **personal** benefit, that is connected, directly or indirectly, with the performance of the Member's duties or responsibilities of or in office, except as permitted by one or more of the exceptions listed in subsection 4(3).
- (2) For the purposes of subsection 4(1), a fee, advance, gift, **loan** or **personal** benefit, provided with the knowledge of the Member, to a family member of the Member, to a member of staff of the Member, to any other person related to the Member, or to any other person, corporation or body with whom or which the Member is associated, that is connected, directly or indirectly, to the fact or performance of the Member's duties or responsibilities of or in office, is deemed to be a gift or benefit to the Member.
- (5) In the case of one or more fees, advances, gifts, **loans** or **personal** benefits referred to or included in any of paragraphs 4(3)(b), (h), (i), (j) or (k), if the value thereof, or if the total value of any one or more such fees, advances, gifts or benefits, provided to or received by, a Member from any one source during the course of a calendar year, exceeds \$200, the Member shall, within 30 calendar days of such provision or receipt, or of reaching or exceeding such amount, file a disclosure statement with the **Integrity Commissioner**. The disclosure statement shall indicate:
  - (a) the nature of every such fee, advance, gift, **loan** and **personal** benefit;
  - (b) its source and date of provision and/or receipt;
  - (c) **its estimated value;**
  - (d) **what the recipient intends to do with the gift;**
  - (e) the circumstances under which it was provided and/or received;
    - (i) **where the gift or benefit is a loan, the Member shall also disclose the terms of the loan agreement, written or oral, pursuant to which the loan was given.**
  - (f) **whether the gift will at any point will be left with the City.**

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- (7) *On receiving a disclosure statement, the Integrity Commissioner must review whether it raises a question of whether there is a conflict between a private interest and the public duty of a member. If that is the case, the Integrity Commissioner must ask that member to justify receipt of the gift or benefit.***
- (8) *If the Integrity Commissioner decides that the member’s explanation does not justify the receipt of the gift as being appropriate, the Integrity Commissioner must advise the Member. The Integrity Commissioner may require 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.***
- (9) *Gifts received by Members of Council which have significance or historical value for the City of Hamilton, as determined by the Clerk, shall be deemed to have been made to the City at the time of the transfer and shall be transferred to the Clerk for the City’s Archives.***
- (10) *In the case of requirement (f) of the disclosure statement, those gifts received by Members of Council which have significance or historical value for the City of Hamilton shall be left with Clerk for the City’s Archives when the Member ceases to hold office.***

#### **APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A” to Report FCS24057 - Council Codes of Conduct re Gifts and Hospitality  
(General Statement, Scope, Reporting Requirements)
- Appendix “B” to Report FCS24057 - Council Codes of Conduct re Gifts and Hospitality  
(Exceptions)
- Appendix “C” to Report FCS24057 - Disclosure Statement
- Appendix “D” to Report FCS24057 - Correspondence from David Boghosian, Integrity Commissioner and Lobbyist Registrar, City of Hamilton respecting proposed amendments to the Council Code of Conduct.