Audit and Administration Committee
REPORT 09-015
as amended by Council November 11, 2009
9:30 a.m.
Wednesday, November 4, 2009
Committee Room 207
Hamilton Convention Centre
One Summer’s Lane

Present:
Chair B. Clark
Vice-Chair R. Powers
Councillors B. Bratina, C. Collins, B. Morelli, M. Pearson,
T. Whitehead

Also Present:
C. Murray, City Manager
R. Rossini, General Manager; T. Tollis, Treasurer; R.
Male, Director of Financial Services – Finance and
Corporate Services
J. Kay, General Manager/Chief – Emergency Services
G. Davis, General Manager, Jim Harnum, Senior Director
of Water and Wastewater – Public Works
T. McCabe, General Manager – Economic Development
and Planning
Mary Agro, Manager of Organizational Development –
Human Resources
K. Christenson, City Clerk; M. Meyer, Legislative Assistant
– City Clerk’s Office

THE AUDIT AND ADMINISTRATION COMMITTEE PRESENTS REPORT 09-015
AND RESPECTFULLY RECOMMENDS:

1. Tax Appeals under Section 357 and 358 of the Municipal Act, 2001
   (FCS09006(g)) (City Wide) (Item 5.2)
   
   (a) That the tax write-offs processed under Section 357 of the Municipal
   Act, 2001, in the amount of $51,144 be approved as set out in Appendix
   A attached hereto; and

Council – November 11, 2009
(b) That the tax appeals due to a gross or manifest clerical error, pursuant to Section 358 of the Municipal Act, 2001, in the amount of $10,770 be approved as set out in Appendix B attached hereto.

2. **Apportionment of Taxes for Property in Stoney Creek (FCS09001(g)) (Ward 11) (Item 5.3)**

That the 2009 property taxes, in the amount of $2,010 for 61-63 Waterford Crescent, Stoney Creek (Roll #2518 003 030 01693), be apportioned and split amongst the two newly created parcels as set out in Appendix C attached hereto.

3. **Monthly Status Report of Tenders and Requests for Proposals for September 15, 2009 to October 13, 2009 (FCS09027(f)) (City Wide) (Item 5.4)**

That Information Report FCS09027(f) respecting Monthly Status Report of Tenders and Requests for Proposals for September 15, 2009 to October 13, 2009 be received.

4. **2009 City of Hamilton Development Charge By-laws 09-143 and 09-144 Amendment – Correct Omission of Affordable Housing Exemption (FCS09099) (City Wide) (Item 6.1)**

(a) That Development Charge By-law 09-143 be amended to include, under exemptions in Section 24(f), “An affordable housing project that receives funding from the City’s Community Rental Housing program through a municipal housing project facilities agreement and by-law, or any such similar City housing program delivered by the City, provided the development charge liabilities of the affordable housing project are not eligible for funding by senior levels of government.”;

(b) That Development Charge By-law 09-144 be amended to include, under exemptions in Section 21(f), “An affordable housing project that receives funding from the City’s Community Rental Housing program through a municipal housing project facilities agreement and by-law, or any such similar City housing program delivered by the City, provided the development charge liabilities of the affordable housing project are not eligible for funding by senior levels of government.”;

(c) That the amendment to Development Charges By-law 09-143, attached hereto as Appendix B to report FCS09099, be passed and enacted; and

(d) That the amendment to Development Charges By-law 09-144, attached hereto as Appendix C to report FCS09099, be passed and enacted
5. **2009 Purchasing Policy Updates (FCS09020(a)) (City Wide) (Item 8.1)**

   (a) That the By-law attached as Appendix ‘A’ to report FCS09020(a) be passed and enacted; and

   (b) That Item K be removed from the Outstanding Business List of the Audit and Administration Committee.

6. **Code of Conduct for Employees Policy and Whistleblower By-Law (HUR09012) (City Wide) (Item 8.2)**

   (a) That the Code of Conduct for Employees Policy (attached hereto as Appendix D) be approved and implemented (replaces existing policy), as amended;

   (b) That the proposed Whistleblower By-law be passed (attached as Appendix B to Report HUR09012), as amended;

   (c) That the City of Hamilton, Conflict of Interest Policy, Code of Conduct for Employees Policy, and Candidacy for Political Office Policy be repealed (all existing); and

   (d) That item F be removed from the Audit and Administration Committee outstanding business list.

7. **Council Code of Conduct (Added Motion)**

   That the draft “Section 4—Gifts and Benefits” of Appendix H, Code of Conduct for Members of Council, to the Procedural By-law be referred to the Governance Review Subcommittee to be reviewed so as to harmonize with the “Gifts and Hospitality” section of the Code of Conduct for Employees Policy.

7. **Correspondence from the City of Greater Sudbury respecting Proposed Workplace Fatalities Family Bill of Rights (HUR09016) (City Wide) (Item 8.3)**

   (a) That Council refer the City of Greater Sudbury’s resolution respecting Proposed Workplace Fatalities Family Bill of Rights to the Ministry of Labour and request municipal consultation in the event there are impacts on municipalities; and

Council – November 11, 2009
(b) That Item S be removed from the Audit and Administration Committee outstanding business list.

8. Election Campaign Contribution Rebates (CL09006(a)) (Item 8.4)

That Information Report CL09006(a) respecting Election Campaign Contribution Rebates be received.

9. Recommendations (d) of Residential Protective Plumbing Subsidy Program (FCS09100/PW09082(a)) (City Wide) (Referred by Council at its meeting on October 28, 2009) (Added Item 8.5)

That recommendation (d) of Report FCS09100/PW09082(a) respecting the 2009 Residential Protective Plumbing Subsidy Program be approved as follows:

(d) That homeowners may not be eligible for future reimbursement under the Compassionate Grant Program if all of the following criteria exist:
   (i) The homeowner has been a previous recipient of the Compassionate Grant Program;
   (ii) The homeowner has been contacted in writing by the City of Hamilton and offered assistance under the Residential Protective Plumbing Subsidy Program in order to undertake some corrective protective plumbing measures; and
   (iii) The homeowner does not take advantage of the Residential Protective Plumbing Subsidy Program, for either the grant and/or the loan components.

FOR THE INFORMATION OF COUNCIL:

(a) CHANGES TO THE AGENDA (Item 1)

The Clerk advised of the following change to the agenda:

Added as Item 8.5 is recommendation (d) of Item 10 of the Audit & Administration Committee Report 09-014 respecting the Residential Protective Plumbing Subsidy Program, which was referred back to the Committee for further discussion by City Council at its meeting on October 28, 2009.

On a motion, the agenda was approved as amended.

Council – November 11, 2009
(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) MINUTES (Item 3)

(i) Minutes of the meeting held on October 21, 2009 (Item 3.1)

The minutes of the Audit and Administration Committee meeting held on October 21, 2009 were approved as presented.

(d) Minutes of Various Sub-Committees (FOR INFORMATION PURPOSES ONLY) (Item 5.1)

That the following minutes of various sub-committees be received:
(a) GLBT Advisory Committee – September 17, 2009

(e) 2009 City of Hamilton Development Charge By-laws 09-143 and 09-144 Amendment – Correct Omission of Affordable Housing Exemption (FCS09099) (City Wide) (Item 6.1)

Rob Rossini, General Manager of Finance and Corporate Services, provided an introduction to the matter and overview of the amendment to the bylaw. He advised that it was a housekeeping amendment with no policy change implications.

Chair Clark advised the meeting that Item 6.1 was a public meeting pursuant to Section 12 of the Development Charges Act, 1997, to present and obtain public input on the City’s proposed amendments to the Development Charges By-law and Water Wastewater Development Charges By-Law. He further advised that notice of the public meeting was published in the Hamilton Spectator on October 9, 2009, inviting interested parties to make representations at today’s meeting. Any person in attendance can make representations relating to the proposed amendments to the Development Charges By-law and Water Wastewater Development Charges By-Law.

No members of the public came forward to address the matter.

(f) 2009 Purchasing Policy Updates (FCS09020(a)) (City Wide) (Item 8.1)

Committee discussed the updates to the Purchasing Policy. In response to questions from the Committee, staff advised of the following:

- Where there is a financially sensitive issue, they will come before Committee and outline the risks, who is providing current service, and seek direction on how to proceed.

Council – November 11, 2009
• Staff are working on a policy respecting vendors for which there is documented proof of unsatisfactory performance, which will be brought forward to the Committee by the end of the first quarter, before the start of the 2010 construction season.

• Currently, a complete review is being done of the Purchasing section. A report will be brought forward to the Operational Review Subcommittee on November 16, 2009 and will come to the Audit and Administration Committee on November 18, 2009.

• Staff educate vendors on the RFP process, but not specifically with respect to their technical work deliverables.

(g) Code of Conduct for Employees Policy and Whistleblower By-Law (HUR09012) (City Wide) (Item 8.2)

Chris Murray, City Manager, provided an overview of the proposed new Code of Conduct for Employees Policy and the Whistleblower Bylaw.

Some discussion ensued, including but not limited to the following:

• Staff confirmed that the Code of Conduct for Employees Policy and the Whistleblower Bylaw is exclusive of the Mayor and Members of Council, but does apply to their staff.

• Staff confirmed that the Code of Conduct for Employees is meant to harmonize with the Council Code of Conduct.

• Staff clarified that they would try to handle any costs incurred by the Whistleblower Bylaw with existing dollars and existing complement.

• The Integrity Commissioner is responsible for a separate process, so he would not be responsible for investigation under the Code of Conduct for Employees Policy or Whistleblower Bylaw.

• Committee requested clarification of and expressed concerns respecting the “Gifts and Hospitality” component of the Code of Conduct for Employees Policy, specifically with regard to the exemption for management and professional staff who, as part of their business responsibilities, participate in hospitality events that are more frequent or exceed the monetary limits outlined in the policy.

Committee discussed section 6(d) of the Whistleblower Bylaw. Staff advised that they could make it clear in their communication to all employees that an employee should first approach his or her supervisor/manager, and should approach the Department head or Director of Audit Services if the disclosure of serious wrongdoing is with respect to their supervisor/manager. Committee agreed that the communication should make it clear and, should there be confusion after the fact, the matter can be investigated and an amendment passed at that time.

Committee passed the following motion:

Council – November 11, 2009
(a) That the Code of Conduct for Employees Policy be amended by deleting the words “disadvantages and disadvantages” in the “Indirect Interests” portion of the policy (page 3 of 11) and replacing them with the words “advantages and disadvantages”;

(b) That the Code of Conduct for Employees Policy and the Whistleblower Bylaw be amended by refining the definition of the word “employee” so as to make it clear that Members of Council are excluded from the definition.

Committee passed a motion as outlined in Item 7 above.

(h) Election Campaign Contribution Rebates (CL09006(a)) (Item 8.4)

Kevin Christenson, City Clerk, provided an overview of the report.

(i) GENERAL INFORMATION/OTHER BUSINESS

(i) Outstanding Business List Items requiring Approval for Proposed New Due Dates (Item 11.1)

The proposed new due date for the following Audit and Administration Committee Outstanding Business List item was approved:

Item L: Alcohol-related Events in City-owned Facilities Current Due Date: Nov. 4/09

Proposed New Due Date: Dec. 2/09

(j) ADJOURNMENT (Item 13)

(Collins/Pearson)

The Audit and Administration Committee adjourned at 10:44 a.m.

Respectfully submitted,

Councillor Brad Clark, Chair
Audit and Administration Committee

Mary-Ann Meyer
Legislative Assistant

Council – November 11, 2009
## Appeals of the Municipal Act, 2001

<table>
<thead>
<tr>
<th>Appeal No.</th>
<th>Property Address</th>
<th>Roll Number</th>
<th>Explanation</th>
<th>YEAR</th>
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<tr>
<td>357-08-107</td>
<td>245 Wellington St N</td>
<td>020182091300000</td>
<td>Fire on June 12, 2008</td>
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<td>357-08-208</td>
<td>54 Kirby Ave</td>
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<td>Fire in January 08, due to extensive damage house torn down.</td>
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<td>357-08-340</td>
<td>154 Homeside Ave</td>
<td>003310472000000</td>
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<tr>
<td>357-08-350</td>
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<td>303970040000000</td>
<td>Exemption denied does not meet the criteria required for a group home</td>
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<tr>
<td>357-08-368</td>
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<td>357-08-369</td>
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<td>Demolition of inside of the building</td>
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<td>357-09-003</td>
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<td>357-09-042</td>
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<td>Tax Class Conversion processed on MOS</td>
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<td>357-09-134</td>
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<td>357-09-139</td>
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<td>Tax Class Conversion now PILT same dollar value</td>
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<td>357-09-171</td>
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<td>Exempt parking for Philpott Memorial property will be consolidate in 2010</td>
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<td>357-09-221</td>
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<td>purchase of part of property by MOT for Clappison Corners expansion</td>
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**Total**
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(51,143.77)
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<th>Reason</th>
<th>Explanation</th>
<th>Year</th>
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<td>358-08-085</td>
<td>5 Glenron Rd</td>
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<td>Does not meet criteria for group home exemption</td>
<td>2007</td>
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<td>358-09-003</td>
<td>0 Blue Sky Trail</td>
<td>3033500605090000</td>
<td>B</td>
<td>City property should be exempt</td>
<td>2008</td>
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<td>358-09-004</td>
<td>0 Parkside Dr</td>
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<td>City property should be exempt</td>
<td>2008</td>
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<td>358-09-016</td>
<td>9246 Chippewa Rd</td>
<td>402610078000000</td>
<td>B</td>
<td>House boarded up &amp; unliveable and has been since 2005</td>
<td>2008</td>
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<tr>
<td>358-09-017</td>
<td>9246 Chippewa Rd</td>
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<td>358-09-021</td>
<td>36 Springgarden Cres</td>
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<td>Incorrect lot size recorded</td>
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<td>36 Springgarden Cres</td>
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<td>Incorrect square footage on garage recorded</td>
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<td>Incorrect square footage on house recorded</td>
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<td>358-09-028</td>
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<td>070640564200000</td>
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<td>Incorrect square footage on house recorded</td>
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<td>358-09-033</td>
<td>73 Rockcliffe Rd</td>
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<td>358-09-034</td>
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<td>358-09-038</td>
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<td>Denied a matter of opinion of assessor</td>
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<td>358-09-050</td>
<td>145Dartnall Rd</td>
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<td>Denied a matter of opinion of assessor</td>
<td>2007</td>
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<td>358-09-051</td>
<td>31 Blasdell Ct</td>
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<td>Incorrect square footage on house recorded</td>
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<td>358-09-052</td>
<td>31 Blasdell Ct</td>
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<td>89 Park St N</td>
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<td>B</td>
<td>Parking lot for Phillpot Memorial to be consolidate in 2010</td>
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<td>-888.79</td>
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<td>358-09-056</td>
<td>573 Highvalle Rd</td>
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<td>358-09-056</td>
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<td>B</td>
<td>MOT purchased part of property for Clappison Cut expansion</td>
<td>2008</td>
<td>-4,228.49</td>
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</tbody>
</table>

Total (10,769.51)
APPORPTIONMENT OF TAXES

That the original land taxes levied against:

**Roll #2518 003 030 01693** (61-63 Waterford Crescent, Stoney Creek) for the 2009 tax year, in the amount of $2,010, be split amongst the two newly created parcels listed below:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>ADDRESS</th>
<th>ROLL NUMBER</th>
<th>APPORTIONED ASSESSMENT</th>
<th>TOTAL TAXES</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>63 Waterford Crescent</td>
<td>2518 003 030 01693</td>
<td>105,100</td>
<td>$1,472</td>
</tr>
<tr>
<td>2009</td>
<td>61 Waterford Crescent</td>
<td>2518 003 030 01674</td>
<td>38,400</td>
<td>538</td>
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<tr>
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<td><strong>Total</strong></td>
<td></td>
<td><strong>143,500</strong></td>
<td><strong>$2,010</strong></td>
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# Code of Conduct for Employees Policy

## POLICY STATEMENT
The residents and businesses of the City of Hamilton are entitled to have fair, ethical and accountable local government administration. Accordingly, the City of Hamilton has high expectations of its employees for integrity and ethical conduct in their service to the community.

The City recognizes that employees strive to perform their duties in a manner that maintains and enhances public confidence and trust in the integrity, objectivity and impartiality of the City, understanding that trust and mutual respect are the cornerstones of any relationship between the public and its municipal government.

City employees owe a duty of loyalty and commitment to the City as a condition of accepting employment with the City of Hamilton. In serving the public interest they are entrusted with access to a wide range of information, resources and responsibilities. The City expects its employees to operate with a sense of honesty and accountability in accordance with the values and goals established in the Mission, Vision and Values of the City.

## PURPOSE
The City of Hamilton’s work is diverse, multi-faceted and complex. Consequently, City employees must be independent, impartial and responsible to the public in carrying out their duties. By signing the Code of Conduct for Employees, employees acknowledge and accept responsibility to act and behave in a manner that is consistent with the expectations prescribed in this Policy. Employees collectively benefit from an overall atmosphere of high ethical conduct that flows from this commitment.

While it is not possible to cover every possible conflict of interest situation that might arise, this Policy outlines the City’s expectations regarding real and apparent conflicts of interest between an employee’s personal interests and the best interests of the City of Hamilton. If employees have questions or are unclear whether they have a conflict of interest, they are encouraged to discuss the situation with their supervisors or managers.

## SCOPE
This Policy applies to all City employees, including but not limited to regular, temporary and contract employees, and to volunteers, students and interns (collectively called “Employees”).

This Policy is intended to supplement any other requirements imposed by applicable legislation, standards of professional practice, or any other requirements imposed by relevant City entities or departments.

## DEFINITIONS
The following terms referenced in this Policy are defined as:

- **City**
  means the City of Hamilton, either in the sense of the geographic area of the municipality or in the sense of the identity of the municipal corporation, as the context requires.
### Confidential Information

Confidential Information includes but is not limited to information in the possession of the City that the City is either prohibited from disclosing, is required to refuse to disclose or exercises its discretion to refuse under the Municipal Freedom of Information and Protection of Privacy Act, Personal Health Information Protection Act or other legislation, and information concerning matters that are considered in an in-camera meeting under section 239 of the Municipal Act, 2001.

### Conflict of Interest

A conflict of interest is a situation in which an employee has personal or private interests that may compete with the public interests of the City of Hamilton. Such competing interests can make it difficult to fulfill his or her duties impartially. A conflict of interest can create an appearance of impropriety or a perception of bias that can undermine confidence in the person and in the City of Hamilton generally. A conflict exists even if no unethical or improper act results from it. A conflict of interest can either be an apparent conflict or a real conflict.

**Apparent Conflict:** An apparent conflict of interest exists where an informed and reasonable person reviewing the matter and having thought the matter through could conclude that a conflict of interest exists.

**Real Conflict:** A real conflict of interest exists where a personal interest exists and that interest:

1. is known to the employee; and
2. has a connection to the employee’s duties that is sufficient to influence the exercise of those duties.

**Family Member** means:

- (a) spouse, including but not limited to common-law spouse and same-sex partner
- (b) child, mother, father, sister, brother, grandchild, grandparent, aunt, uncle, niece and nephew
- (c) mother-in-law, father-in-law, sister-in-law and brother-in-law
- (d) step-mother, step-father, step-sister, step-brother and step-child, and
- (e) child, mother or father in a relationship where the role of parent has been assumed.

**Personal Interest** means:

A personal interest includes a right, entitlement, or legal share in something and involves any situation where the employee is likely to secure some benefit or loss, or advantage or disadvantage. A personal interest includes but is not limited to financial interests and can be a direct interest or an indirect interest.

A personal interest does not include an interest:

- (a) that is of general application to residents, businesses, or employees of the City; or
- (b) where the interest is so remote or insignificant in its nature that a decision affecting the interest cannot reasonably be regarded as likely to influence the employee.
## Fraud

Per the Fraud Policy & Protocol, fraud includes any array of acts characterized by intentional deception. Dishonest, illegal or fraudulent activities include, but are not limited to:

- Forgery or alteration of documents (cheques, promissory notes, time sheets, independent contractor agreements, purchase orders, etc.);
- Misrepresentation of information by an individual;
- Misrepresentation of information on documents;
- Misappropriation of funds, securities supplies or any other asset;
- Unauthorized use disappearance, or destruction of City property, equipment, materials or records;
- Impropieties in the handling or reporting of money transactions;
- Authorization or receipt of payments for goods not received or services not performed;
- Authorization or receipt of payment for hours not worked;
- Any inappropriate expense claim made, which is unrelated to City business or the employee’s job responsibilities.
- Any apparent violation of Federal, Provincial or local laws.

## Direct Interests

Direct interests are those interests in which the employee has an apparent significant social relationship or financial relationship and with respect to which the employee may gain benefits or losses, advantages or disadvantages.

## Indirect Interests

Indirect interests are those interests in which the employee, by virtue of a significant social relationship or a financial relationship, may reasonably be seen to gain benefits or losses, advantages or disadvantages, even though the employee may never have a direct interest.

## Financial Relationship

A financial relationship is one in which:

(a) the employee or his or her agent,
   i. is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public;
   ii. has a controlling interest in, or is a director or senior officer of, a corporation that offers its securities to the public; or,
   iii. is a member of a body that potentially has a financial interest in matters within the scope of the employee’s duties or responsibilities.

(b) The employee is a partner of a person, or is, in addition to the employee's position at the City, in the employment of another person or body.

## Significant Social Relationship

A significant social relationship includes personal relationships, such as family and emotional relationships, and memberships in volunteer and professional organizations.

## TERMS & CONDITIONS

The following terms and conditions apply to this Policy:

All employees are responsible and accountable for using good judgment in the exercise of their duties and must carry out those duties in accordance with the following provisions. Employees are required to report all conflicts of interest that may come to their attention to the City Manager, their General Manager or equivalent (hereafter “General Manager”), director, manager, or supervisor.
Corporate Human Resources Policy
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Personal Interests

No employee in the course of his or her duties shall seek to advance a personal interest, whether or not it is detrimental to the City.

Examples of advancing a personal interest include but are not limited to:

1. Influencing or attempting to influence the City to contract with a person, partnership or corporation for any purpose in which the employee has a personal interest, or for which the employee has received or reasonably anticipates receiving some profit, payment, or compensation.

2. Soliciting or accepting from any person or corporation any profit, commissions or other payments or favours in the way of price or other advantages, such as loans or services, when:

   (a) the person or corporation has had, has, or may reasonably be expected to have, any business, commerce or trade dealings with the City; or
   (b) the person or corporation is seeking any decision, act, advice, comment, endorsement or anything whatsoever from the City, its employees or City Council;

3. Soliciting or accepting any share of profits, commissions or other payments or favours in the way of price or other advantages, such as loans or services, in exchange for referral of third parties to any City employee for the purpose of securing or continuing business with the City.

Community Board Activity

No employee shall accept an appointment to the Board of a community agency or association that deals with matters related to the activities of the City, without the written permission of his or her General Manager or designate. Written permission of the General Manager or designate is not required if the employee is appointed to the Board of the agency or association by the City to represent the City's interests.

Any City employee serving on a community board shall take all reasonable actions to avoid any real conflict or apparent conflict between Board activity and the City's interests. Where a real or apparent conflict exists, the employee shall declare the conflict and shall not take part in, or be present for, any Board discussion or decision about the issue raising the conflict of interest. If the conflict of interest is significant, the employee shall resign from the board.

Political Activity

To ensure public trust in the City of Hamilton, employees must be, and appear to be, both personally impartial and free from undue political influence in the exercise of their duties.

Employees engaged in political activities must take care to separate personal political activities from their position of employment with the City.

Employees who are politically involved in Municipal, Provincial, or Federal levels of government must make it clearly understood that they
Employees who are running for elected office at the municipal level must abide by the respective legislation governing such elections. This includes abiding by s. 30 of the Municipal Elections Act, 1996 which requires that employees request and obtain an unpaid leave of absence beginning as of the day the employee is nominated and ending on voting day; and deems employees who are elected to office to have resigned from employment immediately before making their declaration of office.

Any employee who is politically involved shall ensure that such involvement does not interfere with his or her ability to perform his or her corporate duties objectively. Employees should not engage in any political activity during working hours, or utilize City assets resources or property. Employees shall not identify themselves as City employees when engaged in political activity (e.g. employees shall not wear clothing with the City of Hamilton logo while canvassing for a candidate). Notices, posters or similar material in support of a particular candidate or political party are not to be displayed or distributed by employees at City work sites or on City property. An employee’s decision to support a candidate or political party financially remains a personal decision.

Every employee shall safeguard confidential information and shall not release confidential information to anyone other than the persons who are authorized to receive such information. The following information must not be used or disclosed:

1. except in accordance with the Municipal Freedom of Information and Protection of Privacy Act:
   - personal information about an employee (name, address, payroll or benefits information)
   - items under litigation
   - labour relations matters
   - information that constitutes the proprietary information of a third party, individual or group
   - information that might reasonably be regarding as having been disclosed to the employee in confidence,
   - information that is of a sensitive nature, or
   - information that imparts to the person in possession of such information an advantage not available to the public generally.

2. except in accordance with the Personal Health Information Protection Act, identifying information about an individual in oral or recorded form, if the information:
   - relates to the physical or mental health of the individual, including information that consists of the health history of the individual’s family;
   - relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual;
   - is a plan of service within the meaning the Long-Term Care Act, 1994 for the individual;
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gives to payment or eligibility for health care, or eligibility for
coverage for health care, in respect of the individual;
\[ \text{relates to the donation by the individual of an body part or bodily}
\text{substance of the individual or is derived from the testing or}
\text{examination of any such body part or bodily substance,}
\text{an individual’s health number, or}
\text{identifies an individual’s substitute decision-maker.}

Employees shall consult with the City’s Coordinator of Elections &
Freedom of Information in the City’s Clerk Division if clarification is
required.

Employees Doing
Business With the City

No employee shall knowingly approve or attempt to influence the approval of any
license, permit, contract, agreement or other document on behalf of the City for
his or her own personal use, or for the use of an individual with whom the
employee has a financial or social relationship. This is in accordance with the
City’s Purchasing Policy.

Financial Integrity

Every employee who maintains the City’s accounting records shall do so
with the utmost integrity, reflecting accurately and punctually all
transactions, assets and liabilities of the City. All business records,
expense accounts, invoices, vouchers, bills, payroll and employee
records and other reports are to be prepared with care and honesty.
False or misleading entries, other false or misleading information, or
omissions of entries in the records or reports of the City, or any
unrecorded bank accounts, are strictly prohibited.

No employee shall undertake any fraudulent activities. This includes
misrepresenting information on documents, authorizing payment for
goods and services not received, unauthorized use, destruction, or
disappearance of City assets and information, and forgery or alteration of
document. Further details can be found in the Fraud & Protocol Policy.

No employee shall establish or maintain secret or unrecorded cash funds
or other assets of the City for any purpose or conceal any transaction
from the City’s internal or external auditors.

Gifts & Hospitality

An employee may not solicit or accept any gift, benefit, money, discount,
favours, gift certificate, gift card or other assistance from any person or
business which has or desires to have a contract with the City to supply
goods or services, unless the gift, benefit, money, discount, favours, gift
certificate, gift card or assistance is available to all members of the public
or is available on a discounted basis to all City employees e.g.
discounted cell phone package or automobile insurance.

No employees shall accept any gifts, hospitality, and invitations to
special events which exceed $100 in value. An employee may accept a
nominal gift or hospitality with a value of $25, or under (for example,
lunch, dinner, coffee, a business portfolio, a plant) provided that:

1. it is in the context of a business meeting or interaction, or in the
context of a recognized charitable event; and
Influencing the Employment Process

No employee shall personally make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any family member, friends, or business associates.

No employee shall attempt to interfere with the employment process or influence any City employee to hire, transfer, promote, demote, discipline or terminate any family member, friends or business associates (see Employment of Relatives Policy).

Insider Information

No employee shall access, use or transmit confidential or privileged information available only to City employees to obtain personal or financial gain, or for the personal or financial gain of any other individual, partnership or company, whether directly or indirectly, or for any other purpose except as required by law.

Outside Business & Financial Activity

No employee participating in any outside business or financial activity shall do so during work hours, or use the City’s facilities or property including but not limited to vehicles, equipment, tools, photocopiers, stationery, telephones or cell phones, computers, etc., for the benefit or purpose of such business or activity.

Outside Employment

Employees shall not take outside employment, including self-employment, if such employment:

- Causes a real or apparent conflict of interest; or
- Is performed in such a way as to appear to be an official act of or to represent the City; or
- Interferes with regular duties in any way, or involves the use of City premises, resources or equipment including but not limited to City e-mail, telephones, cell phones, or supplies.

Where it appears that a conflict of interest might arise in accepting
### Intellectual Property

outside employment, employees must notify their supervisor in writing of the nature of such outside employment prior and receive written permission prior to the acceptance of such employment. (See Reporting a Conflict of Interest, below).

The intellectual property rights in any work produced by an employee in the course of employment at the City are the exclusive property of the City, unless there is a written agreement stating otherwise between the City and the employee.

No employee shall sell, transfer, or in any way authorize the use of any intellectual property, including copyrighted property such as literary or artistic works, patented inventions or processes, technological innovations, computer programs, data bases, and trademarks, belonging to the City, without express authority from the City.

The City forbids software piracy, defined as using any unlicensed copy of a software package that has not been purchased for City purposes. It includes taking a copy of a licensed software package for one’s own use or passing a copy on to another person for their use (See the [Computer & Technology Acceptable Use Policy](#)).

Upon termination of employment, an employee shall promptly deliver to the City any and all property, technology, data, manuals, notes, records, plans, or other documents, including any such documents stored on any video or software related medium, held by the employee concerning the City’s services and programs, know-how, developments, and equipment. This includes property made or prepared by the employee and relating in any way to the affairs of the City. With permission, employees may retain samples of their work if such work is in the public domain. However, this paragraph shall not apply to any original research or to any articles or papers for which the employee is an author or co-author, for which the employee shall retain all intellectual property rights.

### Public Duty

Some positions in the organization are more subject than others to conflicts of interest. General Managers, Directors, Managers and employees who give professional advice or assistance, or participate in enforcement and/or inspection activities, shall take every reasonable action not to place themselves in conflict of interest situations, or exhibit behaviour or commit acts which could bring disrepute to the City or undermine the City’s reputation.

Since public criticism can also undermine the City’s reputation, employees are expected to refrain from public criticism of the City or of other City employees through all venues including social networking. This does not remove employees’ rights as citizens to comment generally on matters of public interest, but in exercising this right, City employees must not identify themselves as such or purport to be speaking on behalf of the City.

### Public Engagements

No employee shall charge or accept a fee for taking part in a public speaking engagement such as a public radio/television broadcast, website broadcast or conference to which he or she was invited as a direct result of his or her position as an employee.
Any fee received for a speaking engagement during normal working hours, or at any time where the employee is representing the City, shall be turned over to the City, unless the value of the fee does not exceed expenses (incurred for such speaking engagement) which are not reimbursed by the City.

Accepting a nominal gift for a speaking engagement such as a pen or other souvenir, with a value of $25, or under, is not a violation of this Policy. Accepting free admission from the seminar or conference organizers for the balance of the seminar or conference is not a violation of this Policy.

Employees may charge or accept a fee for speaking engagements during time off work (e.g. vacation time) providing such employees are not representing or purporting to represent the City.

No employee shall charge or accept a fee for writing or publishing articles or books in any print or online publications, including journals and newsletters, if such article or book directly relates to the employee’s position as a City employee or uses insider information about the City. Any fee received for articles or books written during normal working hours, or at any time where the employee is representing the City, shall be turned over to the City, unless the value of the fee does not exceed expenses (incurred for writing the publication) which are not reimbursed by the City.

Accepting a nominal gift for an article or book, such as a pen or other souvenir with a value of $25 or under, is not a violation of this Policy.

Employees may charge or accept a fee for writing and publishing articles and books during time off work (e.g. vacation time) providing such employees are not representing or purporting to represent the City and providing that the article or book does not contain insider information.

No employee of the City shall directly or indirectly purchase or lease real property from or to the City, nor shall an employee have any direct or indirect interest in a company which purchases or leases real property from or to the City, unless this interest has been fully disclosed to the appropriate approving authority and unless the purchase or lease of the real property is done through a public process.

No employee shall use the City’s property, funds, equipment, tools, supplies or services for any personal uses whatsoever. Limited use of City telephones and cell phones, without incurring long distance or other charges, and limited personal use of a City computer in accordance with the Computer Technology Acceptable Use Policy, is acceptable.

No employee shall charge or accept a witness fee for taking part in a court, tribunal, or other adjudicative process to which he or she was requested to attend as a direct result of his or her position as an employee.

Any witness fee received shall be turned over to the City, unless the...
Reporting a Conflict of Interest

If employees have a personal interest, whether direct or indirect, that might present a conflict of interest in connection with their duties as City employees, they must report this conflict to their director, manager or supervisor in writing. The director, manager or supervisor shall notify the General Manager of the Department or designate, who, in consultation with Human Resources, shall determine whether the employee has breached or may potentially become in breach of this Policy.

If a real or apparent conflict exists, and it is duly reported, such that the employee is or may become in breach of the Policy, the General Manager or designate shall instruct the employee, in writing, to withdraw from participation in any dealings or decision-making processes relative to the issue at hand. If the employee has knowingly or willfully breached the Policy, the General Manager shall determine the appropriate disciplinary measure, in consultation with Human Resources.

A written record of the employee's declaration of the conflict of interest, the decision of the General Manager, and the written instructions to the employee with respect to the conflict of interest shall be maintained in the employee's personnel file.

<table>
<thead>
<tr>
<th>RESPONSIBILITIES</th>
<th>The following positions and/or departments are responsible for fulfilling the responsibilities detailed in this Policy as follows:</th>
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</table>
| City Manager     | • overall administration of the Policy to ensure implementation and compliance  
|                  | • provide guidance in interpreting the Policy  
|                  | • annual review of this Policy to ensure it continues to reflect changing needs and responsibilities of the City’s employees and administration |
| Human Resources  | • distribute copy of Policy to all new employees and discuss Policy during corporate orientation  
|                  | • assist managers with interpretation and application of the Policy  
|                  | • ensure reference to Policy in all employment agreements that are signed off by Directors and above  
|                  | • request a signature of new employees, verifying that they have seen, read and understand their responsibility under the Policy. Signed letter shall be filed with employee’s personnel file in Human Resources.  
|                  | • investigate violations of this Policy, subject to the application of the Whistleblower By-law, with the assistance of Audit Services and/or Hamilton Police Services if required  
|                  | • prepare updates to Policy as required |
| General Managers | • administer the Policy and ensure compliance  
|                  | • provide guidance in interpreting the Policy  
|                  | • deal fairly and firmly with any confirmed violations of the Policy |
Directors/Managers/Supervisors

- ensure that all employees have received a copy of the Policy and are provided with any updates
- highlight any areas that have particular relevance, given the nature of the employee's work
- consult with General Manager, Human Resources or City Manager if interpretation of the Policy is required
- report any violations of the Policy to the General Manager

Employees

- subscribe with signature (as part of employment offer) prior to, or on first day of employment, or following orientation with supervisor, that he or she has read and agrees to bide by the Code of Conduct for Employees
- annually review this Policy
- adhere to the standards outlined in this Policy
- seek clarification if unsure about any information included in this Policy.

COMPLIANCE

Every employee is expected to be aware of and act in compliance with this Policy. Any employee under investigation may be suspended with or without pay or be re-assigned to other duties pending completion of the investigation, depending on the particulars of the case and the best interests of the City. Where there is a serious wrongdoing, as defined in the Whistleblower By-law, that By-law applies. Violations of this policy may result in appropriate disciplinary measures, up to and including dismissal.

RELATED DOCUMENTS

The following policies and acts are related to Code of Conduct, and the employees must be aware and abide by these policies as well.

- Computer and Technology Acceptable Use Policy
- Employment of Relatives Policy
- Fraud Policy & Protocol
- Harassment & Discrimination Prevention Policy
- Municipal Freedom of Information Act
- Personal Health Information Protection Act
- Personal Harassment Prevention Policy
- Purchasing Policy
- Substance Abuse Prevention Policy
- Race Relations Policy
- Violence in the Workplace Prevention Policy
- Whistleblower By-law (to be passed)

HISTORY

The following stakeholders were consulted in the creation or revisions made to this Policy:

- Legal
- Policy Review Group
- Human Resources
- SMT

This policy replaces the former policy Code of Conduct Policy dated (1995 June 6), Candidacy for Political Office; and Conflict of Interest.