

# **Appendix 1: Conflict of Interest Rules**

---

The following excerpts from the *Community Charter* deal with conflict of interest for members of municipal council.

## **100. Disclosure of conflict**

- (1) This section applies to council members in relation to
  - (a) council meetings,
  - (b) council committee meetings, and
  - (c) meetings of any other body referred to in section 93 [*application of open meeting rules to other bodies*].
- (2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has
  - (a) a direct or indirect pecuniary interest in the matter, or
  - (b) another interest in the matter that constitutes a conflict of interest, the member must declare this and state in general terms the reason why the member considers this to be the case.
- (3) After making a declaration under subsection (2), the council member must not do anything referred to in section 101 (2) [*restrictions on participation*].
- (4) As an exception to subsection (3), if a council member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting his or her entitlement to participate in respect of the matter, the member may
  - (a) return to the meeting or attend another meeting of the same body,
  - (b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and
  - (c) after this, participate and vote in relation to the matter.
- (5) For certainty, a council member who makes a statement under subsection (4) remains subject to section 101 [*restrictions on participation if in conflict*].
- (6) When a declaration under subsection (2) or a statement under subsection (4) is made,
  - (a) the person recording the minutes of the meeting must record
    - (i) the member's declaration or statement,
    - (ii) the reasons given for it, and
    - (iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and
  - (b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

## **101. Restrictions on participation if in conflict**

- (1) This section applies if a council member has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 100.
- (2) The council member must not
  - (a) remain or attend at any part of a meeting referred to in section 100 (1) during which the matter is under consideration,
  - (b) participate in any discussion of the matter at such a meeting,
  - (c) vote on a question in respect of the matter at such a meeting, or

- (d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.
- (3) A person who contravenes this section is disqualified from holding an office described in, and for the period established by, section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

#### **102. Restrictions on inside influence**

- (1) A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken
  - (a) at a meeting referred to in section 100 (1) [*disclosure of conflict*],
  - (b) by an officer or an employee of the municipality, or
  - (c) by a delegate under section 154 [delegation of council authority], if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.
- (2) A person who contravenes this section is disqualified from holding an office described in, and for the period established by, section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

#### **103. Restrictions on outside influence**

- (1) In addition to the restriction under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.
- (2) A person who contravenes this section is disqualified from holding an office described in, and for the period established by, section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

#### **104. Exceptions from conflict restrictions**

- (1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:
  - (a) The pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;
  - (b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;
  - (c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;
  - (d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
  - (e) the pecuniary interest is of a nature prescribed by regulation.
- (2) Despite sections 100 to 103, if a council member
  - (a) has a legal right to be heard in respect of a matter or to make representations to council, and
  - (b) is restricted by one or more of those sections from exercising that right in relation to the matter, the council member may appoint another person as a representative to exercise the member's right on his or her behalf.