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Disclosures of Pecuniary Interest

Once sworn into office, it is the obligation of all members of Council when making decisions or giving advice on council matters to act honestly and responsibly in carrying out their functions. Generally, those obligations include the disclosures of pecuniary interest.

A pecuniary interest is a matter where one may have any direct or indirect conflict in relation to a matter under consideration. For an “indirect pecuniary interest” see Section 2 of the **Municipal Conflict of Interest Act**. For a “deemed direct or indirect pecuniary interest” see Section 3 of the **Municipal Conflict of Interest Act**.

The onus is on the member of Council, Committee or Board Members to determine whether they are affected by the pecuniary interest provisions.

Effective January 1, 2019, it is required that all members of Council submit their disclosures of pecuniary interest in writing to the Clerk or immediately following the meeting during which they verbally disclose an interest in writing to the Clerk using the **Disclosure of Pecuniary Interest Form**.

A registry has been created of the written disclosures which is available for public inspection.

Conflict of Interest Disclosure Form

In accordance with division A of the *Local Government Act 1989* a relevant person must declare any direct or indirect conflicts of interest. For the purpose of the Act, a relevant person is defined as including Councillors, members of a special committee, and members of Council Staff. Under clause 80C any person who is engaged under a contract to provide advice or services to the Council or a special committee is also required to disclose the type of interest when providing the advice or report and before the advice or report is considered by the Council or the committee.

The 8 necessary questions to identify a conflict of interest

Is there a connection between the matter and –

1. A likely direct alteration of my circumstances (**direct interest**)?
2. A relative (**close association**)?
3. A financial gain or loss via another person (**indirect financial interest**)?
4. My work (**conflicting duty**)?
5. My being a member of a governing body (also a **conflicting duty**)?
6. My receipt of a gift (**receipt of an applicable gift**)?
7. My involvement in legal proceedings (**becoming an interest party**)?
8. The reasonable likelihood of my residential amenity being altered (impact on **residential amenity**)

If you have answered "no" to **all** these questions, you **probably** do not have a conflict of interest.

If you have answered "yes" to at least one question, is the interest exempt because –

- it is remote or insignificant so as to not reasonably be regarded as capable of influencing my vote; or
- it is in common and equal with other residents, ratepayers or voters or with a large class of persons?

Finally, do you have a personal interest in the matter that is in conflict with your public duty (**conflicting personal interest**)?

In addition, section 79C of the *Local Government Act 1989* identifies the following situations where a Councillor is taken to **not have** a conflict of interest, if the matter only relates to:

- (a) nomination or appointment of the Councillor to a position without remunerated;
- (b) election of the Mayor or the appointment of an acting Mayor;
- (c) payment of allowances to the Mayor or Councillors;
- (d) adoption of a Councillor reimbursement of expenses policy;
- (e) adoption of a Councillor Code of Conduct;
- (f) application to a Councillor Conduct Panel or VCAT;
- (g) an application for an exemption by the Minister under section 80;
- (h) appointment of members and Chairpersons of special committees;
- (i) making the Councillors eligible or ineligible for the superannuation guarantee under taxation legislation;
- (j) the conduct of a Councillor with respect to an internal dispute that involves the Councillor or an allegation of misconduct or serious misconduct by the Councillor.
- (k) a submission to an electoral representation review;
- (l) a submission for the purposes of a subdivision review; or
- (m) adoption of a budget, or revised budget, where a Councillor has a conflict of interest in a matter that was previously approved by Council, and the interest disclosed prior to that decision being made.



Conflict of Interest

Effective March 1, 2019, it is required that all members of Council submit their disclosures of pecuniary interest in writing to the Clerk or immediately following the meeting during which they verbally disclose an interest in writing to the Clerk using the *Disclosure of Pecuniary Interest Form*.

Declaration of Interest – *Municipal Conflict of Interest Act*

Section A

Name of Meeting	
Date of Council/Committee Meeting	
Agenda Item Number	
Agenda Item Description	

I, _____ declare a potential
 (deemed/direct/indirect) pecuniary interest on the _____
 _____ Agenda, Dated _____,

Item Number _____ above described, for the following reason (please
 provide description):

Signature

Print Name:

Time left meeting: **Time returned to meeting:**

For an “**indirect pecuniary interest**”, see Section 2 of the *Municipal Conflict of Interest Act*.
 For a “**deemed direct or indirect pecuniary interest**”, see Section 3 of the *Municipal Conflict of Interest Act*.

NOTE: Section 79(6) of the Act requires that while the matter is being considered, or any vote is taken, the Councillor or Committee Member must:

- (a) **Leave the room** and **notify** the Mayor or Chairperson that he or she is doing so; and
- (b) **Remain outside** the room and any gallery or other area **in view or hearing** of the room.

Section B – to be completed by the officer responsible for Council or Committee Minutes

1. Was a vote taken on the item? Yes ___ No ___
2. Did Councillor/Committee Member exit meeting before discussion of,
 and not vote on, item? Yes ___ No ___

Print Name: _____
 (Responsible Officer)

Signature: _____

