

# **CITY OF BELMONT CODE OF CONDUCT**

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- 2. Definitions of 'misconduct' and 'serious misconduct' in the *Corruption and Crime Commission Act 2003*

### **City Of Belmont Values**

The following basic values have the highest standing in the City of Belmont. Elected members, committee members and employees are expected to apply these values in all their activities associated with the business of the City.

Teamwork	People building relationships to work together to achieve common goals.
Leadership	To focus and inspire people to achieve.
Integrity	To act in a professional, open, honest and accountable manner.
Innovation	To create new, innovative and alternative ways of working.
People Focus	To work safely. To communicate and consult in order to understand people's needs.

These values provide the organising principle for this Code which is arranged in five parts corresponding with the five basic values (see Parts 5 to 9 inclusive).

## **1. PURPOSE OF THE CODE OF CONDUCT**

### **1.1. *Local Government Act 1995***

Section 5.103 of the *Local Government Act 1995* requires every local government to prepare or adopt a code of conduct to be observed by council members, committee members and employees.

### **1.2. Guidelines to exceptional standards of conduct**

This Code of Conduct provides elected members, committee members and employees in City of Belmont with consistent guidelines to ensure an exceptional standard of professional conduct. This Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability.

### **1.3. Objectives**

This Code is complementary to the principles adopted in the Local Government Act 1995, which incorporates four fundamentals that aim to result in:

- (a) better decision-making by local governments;
- (b) greater community participation in the decisions and affairs of local governments;
- (c) greater accountability of local governments to their communities; and
- (d) more efficient and effective local government.

#### **1.4. Application of this Code**

This Code provides a guide and a basis of expectations for elected members, committee members and employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

All committee members, whether or not elected members or employees, are bound by this Code.

#### **1.5. Election conduct**

Candidates wishing to be elected to Council ought to adhere to this Code during local government election periods. This Code also provides pertinent guidelines for the conduct of electoral candidates who are not presently elected members.

#### **1.6. Rules of Conduct**

This Code must be read in conjunction with the *Local Government (Rules of Conduct) Regulations 2007* which apply to all elected members in WA. The *Local Government (Rules of Conduct) Regulations 2007* apply to a council member whether or not they are acting as a committee member. As the *Local Government (Rules of Conduct) 2007* have their own enforcement regime, a breach by an elected member of a rule of conduct may be reported to the CEO, who acts as the City's Complaints Officer. If so, it will be dealt with under Part 5, Division 9 of the *Local Government Act 1995*.

References to the *Local Government (Rules of Conduct) Regulations 2007* are contained in boxed sections in this Code.

#### **1.7. Related Matters**

This Code supports and acknowledges the intent of the *Local Government Act 1995* and should be read in conjunction with the City of Belmont Policy Manual.

#### **1.8. Further Advice**

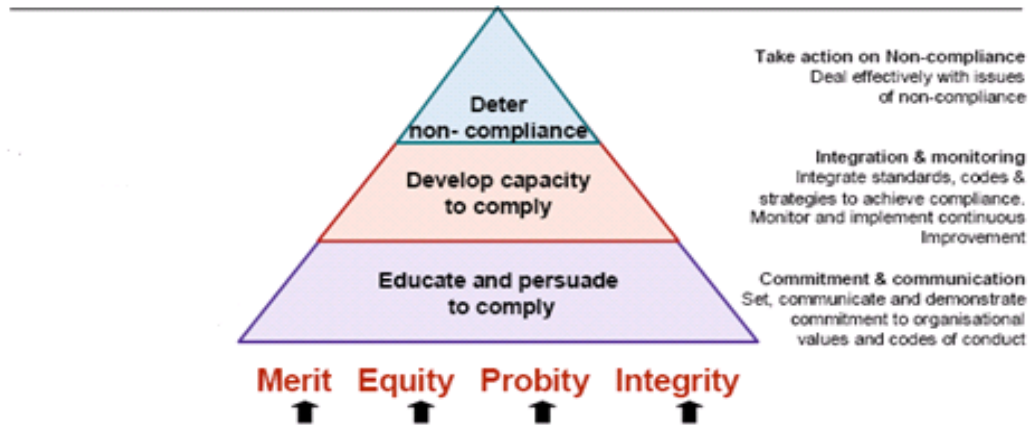
Enquiries regarding the Code of Conduct should be directed:

- (a) in the case of elected members and committee members to the Mayor or the CEO; or
- (b) in the case of employees to your divisional director or the CEO.

## 2. PUBLIC SECTOR STANDARDS AND RULES OF CONDUCT

### 2.1. Model

The model below represents the areas of organisational activity considered necessary to build and sustain an ethical culture, based on the WA Public Sector Code of Ethics.



### 2.2. Review of Code Against Public Sector Standards

The City has reviewed its Code of Conduct against the WA Public Sector Code of Ethics to ensure that the City's Code meets the standards set by the Public Sector Commission.

### 2.3. Rules of Conduct

The *Local Government (Rules of Conduct) Regulations 2007* set out principles to guide the behaviour of elected members.

***Local Government (Rules of Conduct) Regulations 2007***

**3. General principles to guide the behaviour of council members**

- (1) General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should —
  - (a) act with reasonable care and diligence; and
  - (b) act with honesty and integrity; and
  - (c) act lawfully; and
  - (d) avoid damage to the reputation of the local government; and
  - (e) be open and accountable to the public; and
  - (f) base decisions on relevant and factually correct information; and
  - (g) treat others with respect and fairness; and
  - (h) not be impaired by mind affecting substances.
  
- (2) The general principles referred to in subregulation (1) are for guidance of council members but it is not a rule of conduct that the principles be observed.

## **THE CITY OF BELMONT'S VISION**

**"THE CREATION OF OPPORTUNITIES FOR EVERYONE"**

### **3. CITY OF BELMONT VISION**

#### **3.1. City of Belmont Vision**

*This is Council's vision for the City of Belmont:*

***The City of Belmont will be home to a diverse and harmonious community, thriving from the opportunities of our unique, riverside City.***



## **4. ROLES**

### **4.1. Role of Council**

The role of Council is in accordance with section 2.7 of the *Local Government Act 1995*:

(1) *The council —*

- a. governs the local government's affairs; and*
- b. is responsible for the performance of the local government's functions.*

(2) *Without limiting subsection (1), the council is to —*

- a. oversee the allocation of the local government's finances and resources; and*
- b. determine the local government's policies.*

When making decisions, Council is exercising either its legislative role or its executive role (also known as administrative role). Its executive role may be an exercise of quasi judicial, review or advocacy functions.

The quasi judicial function is not specifically identified in the *Local Government Act 1995* but is clearly dictated by various responsibilities of Council to determine applications or matters directly affecting a person's rights or interests. In exercising these responsibilities, Council is required to comply with the principles of procedural fairness (also known as the rules of natural justice). These principles require higher standards than apply to other aspects of the Council's executive role.

### **4.2. Role of Mayor**

The role of the Mayor is in accordance with section 2.8 of the *Local Government Act 1995*:

(1) *The mayor or president —*

- a. presides at meetings in accordance with this Act; and*
- b. provides leadership and guidance to the community in the district; and*
- c. carries out civic and ceremonial duties on behalf of the local government; and*
- d. speaks on behalf of the local government;*
- e. performs such other functions as are given to the mayor or president by this Act or any other written law; and*
- f. liaises with the CEO on the local government's affairs and the performance of its functions.*

#### **4.3. Role of elected members**

The role of elected members is as set out in section 2.10 of the *Local Government Act 1995*:

*A councillor —*

- a. represents the interests of electors, ratepayers and residents of the district; and*
- b. provides leadership and guidance to the community in the district and;*
- c. facilitates communication between the community and the council; and*
- d. participates in the local government's decision-making processes at council and committee meetings; and*
- e. performs such other functions as are given to a councillor by this Act or any other written law.*

Where a committee member is not an elected member then they will still abide by this section

#### **4.4. Function of CEO**

The functions of the CEO are set out in section 5.41 of the *Local Government Act 1995*:

*The CEO's functions are to —*

- a. advise the council in relation to the functions of a local government under this Act and other written laws; and*
- b. ensure that advice and information is available to the council so that informed decisions can be made; and*
- c. cause council decisions to be implemented; and*
- d. manage the day to day operations of the local government; and*
- e. liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and*
- f. speak on behalf of the local government if the mayor or president agrees; and*
- g. be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and*
- h. ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- i. perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

#### **4.5. Role of employees**

The role of an employee is derived from section 5.36 of the *Local Government Act 1995* whereby a local government is to employ persons necessary to enable the functions of both the local government and the council.

The general function of a local government is to provide for the good government of persons in its district

In addition the CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under section 5.44 of the *Local Government Act 1995*.

## **5. TEAMWORK**

*People building relationships to work together to achieve common goals.*

### **5.1. Teamwork behaviour**

- 5.1.1** It is your role to work together as part of the City's team; with the Council, CEO, senior management group and other City employees.
- 5.1.2** It is your role to recognise that teamwork occurs only if you respect and co-operate with fellow team members to achieve the Council's key result areas and implement the Council's strategies. *Note: 'team members' is defined in Part 11 of this Code of Conduct.*
- 5.1.3** It is your role to commit all your efforts in the performance of your official duties, to positive achievements to fully achieve all that is possible for the Belmont community.
- 5.1.4** You are required to be respectful, frank and honest in your official dealings with other team members.
- 5.1.5** Elected members and committee members will minimize the resource impacts of their requests on other team members, by considering the implications and necessity of requests in fulfilling their role as elected members and committee members.
- 5.1.6** The CEO will ensure that elected members and committee members are given access to all information necessary to properly perform their functions and fulfil their role as elected members and committee members, subject to any interest they have disclosed.

### **5.2. Quasi judicial role**

- 5.2.1** When acting in a quasi judicial role you recognise that this is a decision making function and not an information gathering function. You will make each decision based on the relevant information before you and other relevant decision makers.
- 5.2.2** When acting in a quasi judicial role, you will not gather information by liaising with applicants or opponents or conducting site visits, other than through an official site visit or briefing endorsed by the CEO or Council. You will ensure that you abide by the City's adopted policy on acting in a quasi judicial role.

**5.2.3** If you consider that you do not have enough information to make an informed decision then you will ask for any further information that you may require. Additional information will be provided subject to its availability and the organisation's capability to provide the additional information.

**5.3. Conflict resolution**

**5.3.1** You will endeavour to resolve any serious conflict that arises between yourself and another team member promptly and directly with the other team member.

**5.3.2** If, after genuine efforts, you cannot resolve the matter directly with the other team member then you will refer the matter to the CEO or in the case of elected members to the Mayor. If an elected member or a committee member is in conflict with the Mayor, and they are unable to resolve a conflict, then they will refer the matter to the CEO.

**5.3.3** You will endeavour to fairly and quickly resolve conflicts under this Code.

## **6. LEADERSHIP**

*To focus and inspire people to achieve.*

### **6.1. Leadership behaviour**

#### **6.1.1 You will:**

- (a) act and be seen to act in a manner that will not bring the City into disrepute;
- (b) abide by the requirements of the law and the terms of this Code;
- (c) perform your duties impartially and in the best interests of the City of Belmont uninfluenced by fear or favour;
- (d) act in good faith, honestly, for the proper purpose, without exceeding your powers, and in the interests of the City and the Belmont community;
- (e) always publicly support the City's resolved position regardless of your personal opinion;
- (f) refer a matter to the Department of Local Government and Communities where you have reasonable concerns about the probity of the City's resolved position and you have been unable to have your concerns resolved by the City;
- (g) make no unfounded allegations which are improper or derogatory and which are not supported by facts;
- (h) refrain from any form of conduct, in the performance of your official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- (i) always act in accordance with your obligation of fidelity to the City.

- #### **6.1.2**
- You will ensure that information which you receive in the performance of your role is used properly to assist in fulfilling your role or the process of making informed decisions on matters before the Council.

## **6.2. Elected member leadership**

- 6.2.1** Elected members will represent and promote the interests of the City and the Belmont community, while recognising their special duty to their constituents.
- 6.2.2** Elected members' primary obligation is to represent the whole Belmont community and they should consider the interests of special interest groups or individuals only in the context of the greater community good.

## **6.3. Appointments to external organisations**

- 6.3.1** If you are appointed as a delegate of the City to an external association, committee, group or other organisation ("external organisation") then you will:
  - (a) clearly understand the basis of your appointment;
  - (b) where possible, provide regular reports on the activities of the external organisation; and
  - (c) communicate the resolved position of Council to the body as determined from:
    - (i) resolutions of Council dealing specifically with the matter involving the external organisation;
    - (ii) resolutions of Council dealing generally with matters involving the external organisation; and
    - (iii) relevant statements of the Council's position contained in adopted Council policies or the City's Strategic Community Plan 2012-2032.

## **7. INTEGRITY**

*To act in a professional, open, honest and accountable manner*

### **7.1. Honesty and integrity**

**7.1.1** You will observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards.

### **7.2. Performance of duties**

**7.2.1** While on duty, employees will give their whole time and attention to the City's business.

**7.2.2** Employees will ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably on themselves and the City.

**7.2.3** Elected members and committee members will exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on their individual merits.

**7.2.4** Elected members and committee members will keep themselves informed about the functions of Council, and treat all members of the Belmont community honestly and fairly.

### **7.3. Compliance with lawful orders**

**7.3.1** Employees will comply with any lawful order given by any person or body having authority to make or give such an order. If employees have any doubts as to the suitability of any order they will refer their doubts to the superior of the person who gave the order. If the employee cannot achieve resolution in this manner they will refer the issue to the CEO.

**7.3.2** Employees will give effect to the policies and decisions of the City of Belmont, whether or not they agree with or approve of them.

**7.3.3** Employees will act consistently with proper administrative practices, and comply with all of the City's management practices.

### **7.4. Conflict and disclosure of interest**

**7.4.1** You will ensure that there is no actual or perceived conflict or incompatibility between the impartial fulfilment of your public or professional duties and either your personal interests, or those of your immediate family members, business partners or close associates



- 7.4.2** You will disclose any interest required to be disclosed under:
- (a) the *Local Government Act 1995*;
  - (b) the *Local Government (Elections) Regulations 1997*;
  - (c) the *Local Government (Rules of Conduct) Regulations 2007*; or
  - (d) this Code of Conduct.

## **7.5. Conflict of interest**

### **7.5.1 Private work**

Employees must make a written disclosure to the CEO, and seek approval from the CEO, to engage and before engaging in private work. The City retains the right to refuse approval for any other employment or engagement, or to grant approval subject to conditions.

### **7.5.2 Prescribed dealings within the City**

- (1) You will give written notice to the CEO within one working day of you, or a closely associated person, forming a clear intention to commence a prescribed dealing in Belmont.
- (2) The CEO will give written notice to all elected members and committee members within one working day of the CEO, or a closely associated person, forming a clear intention to commence a prescribed dealing in Belmont.
- (3) If you as an Employee or Committee Member are the proponent of a prescribed dealing, it is intended the City will remove you from any process related to the dealing and you should act accordingly. You will only communicate with the City regarding the dealing in a manner and at a time that is generally available to any other customer.
- (4) If you as an Elected Member are the proponent of a prescribed dealing, it is intended the City will remove you from any process related to the dealing and you should act accordingly. You will only communicate with the City in accordance with 'Council Policy BEXB1 – Councillor Contact with Staff'.
- (5) The City will refer a Council report about a prescribed dealing to an independent contractor for probity and compliance review before it is presented to Council.
- (6) *Note: the definitions of 'closely associated person', 'clear intention' and 'prescribed dealing' are set out in Part 11 of this Code.*

### **7.5.3** Personal associations

You will make a written disclosure to the CEO, and disqualify yourself from participating in any relevant matter, when faced with a decision in relation to a close friend, relative or closely associated person.

*Note: 'relative' is defined in Part 11 of this Code.*

### **7.5.4** Partisan political activities

An employee will not act in a partisan political way that could, or could reasonably be perceived to adversely affect the impartiality of the employee. This does not affect an individual's right to maintain their own political convictions.

### **7.5.5** Membership of groups and associations

You will disclose an interest affecting impartiality where you or your partner is a member of a group or association:

- (a) which has a matter before the City which you are required to deal with, report on or make a decision in relation to;
- (b) which has a stated or unstated position on a matter before the City which you are required to deal with, report on or make a decision in relation to; or
- (c) in conjunction with another elected member, committee member or employee, on a matter for which that elected member, Committee Member or employee has disclosed an interest.

## **7.6. Statutory requirements to disclose financial interests**

**7.6.1** Elected members, committee members and employees will abide by the requirements to disclose financial (including proximity) interests in accordance with Division 6 of Part 5 of the *Local Government Act 1995*.

**7.6.2** Elected members and 'designated employees' will provide primary and annual returns in accordance with the requirements of Part 5 of Division 6 of the *Local Government Act 1995*.

*Note: 'designated employee' is defined in Part 11 of this Code of Conduct.*

**7.6.3** If you are a client or adviser of an elected member or employee then you may be considered a closely associated person and, if so, must disclose relevant interests in accordance with the *Local Government Act 1995*.

*Note: 'client or advisor' is defined in Part 11 of this Code.*

## **7.7. Impartiality Interests**

**7.7.1** An elected member, committee member or an employee who has an impartiality interest in any matter to be discussed at a Council or Committee meeting attended by that person must disclose the nature of the impartiality interest:

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

*Note: 'impartiality interest' is defined in Part 11 of this Code.*

**7.7.2** In respect of any matter to be discussed at a council or committee meeting not attended by an employee, the employee must disclose the nature of any impartiality interest he or she has in the matter:

- (a) in a written notice given to the CEO before the meeting; or
- (b) at the time the advice is given.

**7.7.3** An elected member, committee member or employee is excused from the requirement to disclose an impartiality interest if the failure to disclose occurs because the person:

- (a) did not know he or she had an impartiality interest in the matter; or
- (b) did not know the matter in which he or she had an impartiality interest would be discussed at the meeting and the person discloses the nature of the impartiality interest as soon as possible after becoming aware of the discussion of the matter of that kind.

**7.7.4** Where an impartiality interest is disclosed in a written notice given to the CEO before a meeting, then:

- (a) before the meeting the CEO is to ensure that the notice is given to the person who is to preside at the meeting; and
- (b) at the meeting, the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matter to which the disclosure relates is discussed.

**7.7.5** Where an impartiality interest is disclosed or brought to the attention of the persons present at a meeting, the nature of the impartiality interest must be recorded in the minutes of the meeting.

**7.7.6** The disclosure of an impartiality interest does not affect:

- (a) the ability of the elected member, committee member or employee to discuss the matter; or
- (b) the ability of the elected member or committee member to vote on the matter.

**Local Government (Rules of Conduct) Regulations 2007 – Regulation 11**

**11. Disclosure of interest**

- (1) In this regulation –  
**interest** means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.
- (2) A person who is a council member and who has an interest in any matter to be discussed at a council or committee meeting attended by the member must disclose the nature of the interest –
  - (a) in a written notice given to the CEO before the meeting; or
  - (b) at the meeting immediately before the matter is discussed.
- (3) Subregulation (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subregulation (2) does not apply if –
  - (a) a person who is a council member fails to disclose an interest because the person did not know he or she had an interest in the matter; or
  - (b) a person who is a council member fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.
- (5) If, under subregulation (2)(a), a person who is a council member discloses an interest in a written notice given to the CEO before a meeting then –
  - (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
  - (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.
- (6) If –
  - (a) under subregulation (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or
  - (b) under subregulation (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting.the nature of the interest is to be recorded in the minutes of the meeting.

**7.8. Gifts and Benefits**

A gift means any item of value which a person or organisation other than the City, presents to elected members and employees of the City as a consequence of their employment or position with the City.

A benefit is a non-tangible item of value that one person or organisation confers on elected members and employees. A benefit includes hospitality.

Elected members and employees must:

- (a) not seek gifts and benefits;
- (b) refuse all offers of money, gift vouchers or items easily converted to money such as shares;
- (c) refuse bribes and report bribery attempts to the Chief Executive Officer and to the West Australian Police;
- (d) if unsure about how to respond to an offer of a gift, benefit or hospitality, seek advice from the relevant Director or the Chief Executive Officer; and
- (e) declare all gifts and benefits which have a commercial value of \$50 or more on the 'Gift Declaration Form'

#### **7.8.1 Acceptance of Gifts or Benefits**

Elected members and employees may accept a gift or benefit provided its commercial value is within the thresholds set out below and that they comply with clause 7.8 (a) – (e) above.

- (a) Value of the gift or benefit is under \$50  
Elected members and employees may accept a gift or benefit that has a commercial value of less than \$50.
- (b) Value of the gift or benefit is between \$50 and \$300 ("notifiable gift or benefit")  
Gifts and benefits with a commercial value between \$50 and \$300 may be accepted by an elected member or employee provided that:
  - (i) a gift declaration form is submitted to the CEO within 10 days of accepting the gift or benefit; and
  - (ii) that the total commercial value of all gifts and benefits received from that organisation or person (if they are not representing an organisation) does not exceed \$300 in the previous six months (includes gifts received with a commercial value of less than \$50).
- (c) Value of the gift is greater than \$300 and in the public's interest  
Gifts with a commercial value greater than \$300 and considered to be in the public's interest, may be accepted on behalf of the City provided that:
  - (i) ownership of the gift is transferred to the City; and
  - (ii) the elected member or employee submits a 'Gift Declaration Form' and evidence of the Director or Chief Executive Officer's approval within 10 days of accepting the gift.

### **7.8.2** Gift Declaration Form

- (a) A 'Gift Declaration Form; must be in writing and include –
- (b) the name of the person who gave the gift;
- (c) the date on which the gift was accepted;
- (d) a description, and the estimated value of the gift;
- (e) the nature of the relationship between the person who gave the gift and the elected member or employee who accepted the gift; and
- (f) if the gift is a 'notifiable gift' –
  - (i) a description;
  - (ii) the estimated value; and
  - (iii) the date of acceptance
  - (iv) of each gift received in within the six month period.

*Note: A gift with a commercial value of less than \$50 (which is not a 'notifiable gift') is not required to be declared. However, elected members and employees are encouraged to submit a Gift Declaration Form voluntarily.*

### **7.8.3** Gift Register

In accordance with the requirements of the *Local Government Act 1995* the Chief Executive Officer will maintain a register of gift declarations which is a public record and may be inspected on request.

As soon as practicable upon the receipt of a gift declaration form, the Compliance Administrator shall record all gifts and benefits declared by elected members and employees in the Gifts Register.

### **7.8.4** Reporting

The Compliance Administrator will provide the Chief Executive Officer and Directors with a half-yearly report of all gifts and benefits declared by elected members and employees.

**Local Government (Rules of Conduct) Regulations 2007**

**12. Gifts**

(1) In this regulation –

**activity involving a local government discretion** means an activity –

- (a) that cannot be undertaken without an authorisation from the local government; or
- (b) by way of a commercial dealing with the local government;

**gift** has the meaning given to that term in section 5.82(4) of the Act except that it does not include –

- (a) a gift from a relative as defined in section 5.74(1) of the Act; or
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997*; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;

**notifiable gift**, in relation to a person who is a council member, means –

- (a) a gift worth between \$50 and \$300; or
- (b) a gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth between \$50 and \$300;

**prohibited gift**, in relation to a person who is a council member, means –

- (a) a gift worth \$300 or more; or
- (b) a gift that is one of 2 or more gifts given to the council member by the same person within a period of 6 months that are in total worth \$300 or more;

(2) A person who is a council member must not accept a prohibited gift from a person –

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake,  
an activity involving a local government discretion

(3) A person who is a council member and who accepts a notifiable gift from a person –

- (a) who is undertaking or seeking to undertake; or
- (b) who it is reasonable to believe is intending to undertake,

an activity involving a local government discretion must, within 10 days of accepting the gift, notify the CEO of the acceptance in accordance with subregulation (4).

(4) Notification of the acceptance of a notifiable gift is to be in writing and is to include –

- (a) the name of the person who gave the gift; and
- (b) the date on which the gift was accepted; and
- (c) a description, and the estimated value, of the gift; and
- (d) the nature of the relationship between the person who is a council member and the person who gave the gift; and
- (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) –

- (i) a description; and
- (ii) the estimated value; and
- (iii) the date of acceptance,

of each other gift accepted within the 6 month period.

(5) The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.

## 7.9. Disclosure of Election Campaign Contributions

All electoral candidates must comply with the Local Government Act 1995 and the Local Government (Elections) Regulations 1997 in disclosing electoral donations or 'gifts'. A candidate must disclose to the CEO information about any electoral or related gift with a value of \$200 or more that is promised or received within 6 months before the relevant election day.

Requirements relating to the disclosure of electoral gifts are set out in the *Local Government (Elections) Regulations 1997*, particularly Part 5A.

## 7.10. City sponsored competitions

You and your spouse or partner are not eligible to win City sponsored competitions.

## 7.11. Dealing with City property

**7.11.1** You have a responsibility of stewardship when dealing with the City property.

**7.11.2** You will not misuse, or allow any other person or body to misuse, City property.

**7.11.3** You will use City property effectively and economically in the course of your duties.

**7.11.4** You will not use City property for private purposes unless you have been properly authorised.

### ***Local Government (Rules of Conduct) Regulations 2007***

#### **8. Misuse of local government resources**

A person who is a council member must not either directly or indirectly use the resources of the local government –

(a) for the purpose of persuading electors to vote in a particular way at an election, referendum or other poll held under the Act, the *Electoral Act 1907* or the *Commonwealth Electoral Act 1918*; or

(b) for any other purpose, unless authorised under the Act, or authorised by the council or the CEO, to use the resources for that purpose.

## 7.12. Disclosure of confidential information

Elected members, committee members and employees must not disclose written or oral information that is provided to them, or obtained by them, in confidence or, in the case of a document, is marked by the CEO to be confidential.



**Local Government (Rules of Conduct) Regulations 2007**

**6. Use of information**

- (1) In this regulation –  
**closed meeting** means a council or committee meeting, or part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;  
**confidential document** means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;  
**non-confidential document** means a document that is not a confidential document.
- (2) A person who is a council member must not disclose –  
(a) information that the council member derived from a confidential document; or  
(b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information –  
(a) at a closed meeting; or  
(b) to the extent specified by the council and subject to such other conditions as the council determines; or  
(c) that is already in the public domain; or  
(d) to an officer of the Department; or  
(e) to the Minister; or  
(f) to a legal practitioner for the purpose of obtaining legal advice; or  
(g) if the disclosure is required or permitted by law.

**7.13. Improper use of information**

**7.13.1** An elected member, committee member or employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law.

**7.13.2** Due discretion must be exercised by all those who have access to confidential or sensitive information.

**Local Government Act 1995**

**5.93 Improper use of information**

A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law –

- (a) to gain directly or indirectly an advantage for the person or any other person; or  
(b) to cause detriment to the local government or any other person.

Penalty: \$10 000 or imprisonment for 2 years.

**7.14. Improper use of position**

An elected member, committee member or employee must not make improper use of his or her office or position:

- (a) to gain directly or indirectly an advantage for him or her, or for any other person; or  
(b) to cause detriment to the City or any other person.

***Local Government (Rules of Conduct) Regulations 2007***

**7. Securing personal advantage or disadvantaging others**

- (1) A person who is a council member must not make improper use of the person's office as a council member –
  - (a) to gain directly or indirectly an advantage for the person or any other person; or
  - (b) to cause detriment to the local government or any other person.
- (2) Subregulation (1) does not apply to conduct that contravenes section 5.93 of

**7.15. Improper or undue influence**

Elected members, committee members and employees must not take advantage of their position to improperly influence any other person:

- (a) to gain directly or indirectly an advantage for him or her, or any other person;
- (b) or to cause detriment to the City or any other person.

***Local Government (Rules of Conduct) Regulations 2007***

**10. Relations with local government employees**

- (1) A person who is a council member must not –
  - (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or
  - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

## **8. INNOVATION**

*To create new, innovative and alternative ways of working.*

### **8.1. Innovative behaviour**

**8.1.1** Employees will question, review and revise work practices and procedures to account for the organisation's statutory compliance and continuous improvement obligations.

**8.1.2** Elected members and committee members will explore the continuous improvement of the City and the Belmont community by focussing on the sustainability, strategies and performance of the City.

### **8.2. Intellectual property**

**8.2.1** All intellectual property created by employees of the City in the course of their employment with the City is and remains the property of the City.

**8.2.2** You may dispose of the City's intellectual property only if authorised to do so and then only in accordance with the City's policy on the disposal of intellectual property.

### **8.3. Review of this Code**

This Code is to be reviewed within 6 months after each biennial local government election.

## 9. PEOPLE FOCUS

*To work safely. To communicate and consult in order to understand people's needs.*

### 9.1. Communication and public relations

When communicating in your role you will reflect the policies, decisions and objectives of the City and be accurate, professional and polite.

- 9.1.1 You will respect the decision making processes of the Council and the majority decisions of the Council.
- 9.1.2 You will recognise that allegiance to your personal opinions may result in you being unable to make objective decisions for the good governance of the City.
- 9.1.3 You may express your personal opinion on a matter before Council, however, any expression of personal opinion must be respectful and tolerant of the right of individual team members and other affected persons to hold and express differing opinions.
- 9.1.4 Once Council has made a decision, you will recognise your collegiate duty and support that decision, irrespective of your own opinions.
- 9.1.5 You will recognise that the CEO is Council's chief advisor and the CEO will brief individual elected members and committee members or Council on Council matters when necessary.
- 9.1.6 You will recognise that the official spokesperson for Council is the Mayor or, with the agreement of the Mayor, the CEO.
- 9.1.7 Unless authorised by Council or the Mayor or CEO, you will not make a public statement that purports to be made, or could reasonably be seen as being made, on behalf of the City.

### 9.2. Relationships between team members

- 9.2.1 You will recognise that:
  - (a) the role of Councillor is strategic leadership, not a management or administrative role; and
  - (b) the CEO is responsible for implementing Council decisions.

#### ***Local Government (Rules of Conduct) Regulations 2007***

##### **9. Prohibition against involvement in administration**

- (1) A person who is a council member must not undertake a task that contributes to the administration of the local government unless authorised by the council or by the CEO to undertake that task.
- (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.

- 9.2.2 You will respect the governance structure of the City of Belmont which determines that employees are responsible to the CEO and the CEO is responsible to Council.
- 9.2.3 You will communicate through lines of communication established by the CEO to ensure the effectiveness of this governance structure.
- 9.2.4 Elected members will not direct employees to carry out particular functions.
- 9.2.5 You will not publicly criticise fellow team members or question their professional competence and credibility.

***Local Government (Rules of Conduct) Regulations 2007***

**10. Relations with local government employees**

- (3) If a person, in his or her capacity as a council member, is attending a council meeting, committee meeting or other organised event and members of the public are present, the person must not, either orally or in writing or by any other means –
  - (a) make a statement that a local government employee is incompetent or dishonest; or
  - (b) use offensive or objectionable expressions in reference to a local government employee.

**9.3. Relationship between the Mayor and the CEO**

The Mayor and the CEO will actively pursue a working relationship that encompasses the following:

- (a) open communication;
- (b) regular contact;
- (c) information exchange in a timely and frank manner;
- (d) regard for their individual leadership responsibilities;
- (e) commitment to developing understanding of each others views and opinions;
- (f) willingness to negotiate;
- (g) commitment to working through conflict; and
- (h) sharing and encouragement of ideas and challenges;

**9.4. Standard of dress**

**9.4.1** Elected members and committee members will dress in a manner that recognises the importance of their position.

**9.4.2** Employees will comply with neat and responsible dress standards and ensure City safety requirements are met. The CEO and line managers have the right to raise the issue of the standard of dress with individual employees.

**9.5. Equal opportunity**

You will treat all people equally. You will respect diversity within the City and ensure everyone has the same opportunities in their dealings with the City.

## **10. BREACHES AND MISCONDUCT**

Complaints regarding a breach of this Code or of misconduct must be dealt with quickly and fairly in accordance with the principles of procedural fairness and natural justice.

### **10.1. Employees**

**10.1.1** A complaint alleging that an employee has breached this Code must be made in writing. Complaints regarding:

- (a) the Chief Executive Officer – must be made to the Mayor;
- (b) a Director – must be made to the Chief Executive Officer; and
- (c) any other employee – must be made to the employee’s relevant Director.

**10.1.2** The complaint must be investigated in a manner that is in accordance with the City’s Customer Complaints Management Procedure, the City’s Human Resources Policy Manual/Disciplinary Procedures and the principles of natural justice.

### **10.2. Elected members**

**10.2.1** A complaint alleging that an elected member has committed a breach of this Code must be made in writing to the City’s designated complaints officer (under section 5.120 of the *Local Government Act 1995*), currently the Chief Executive Officer.

**10.2.2** The Chief Executive Officer is required, under the *Local Government Act 1995*, to refer the complaint to the Local Government Standards Panel for investigation and determination.

### **10.3. Misconduct**

**10.3.1** For the purpose of this clause, misconduct is defined in accordance with section 4 of the *Corruption and Crime Commission Act 2003*.

**10.3.2** The Chief Executive Officer has a statutory obligation to report to the Corruption and Crime Commission:

- (a) Allegations of suspected misconduct; or
- (b) Matters that concern or may concern misconduct in other public authorities.

**10.3.3** As public officers, elected members and employees are required to immediately report to the Chief Executive Officers any instance of misconduct or improper conduct suspected to have occurred.

#### **10.4. Public Interest Disclosure**

The City has a public interest disclosure procedure that provides confidential mechanisms for reporting and investigating misconduct allegations or improper conduct and other public interest information in accordance with the Public Interest Disclosure Act 2003.



## 11. DEFINITIONS

<b>activity involving a local government discretion</b>	Means an activity: (a) that cannot be undertaken without an authorisation from the City; or (b) by way of a commercial dealing with the City.
<b>Belmont community</b>	Means the residents, ratepayers, electors, businesses, workers and visitors and other stakeholders who rely on the City to deliver good governance.
<b>clear intention</b>	A clear intention to undertake a prescribed dealing is taken to occur when: (a) an offer you have made is accepted; (b) you accept an offer; or (c) you enter into a contract to purchase, acquire, sell or dispose; whichever occurs first.
<b>client or adviser</b>	A person who supplies, or receives, legal or financial professional services
<b>closely associated person</b>	Has the meaning given in section 5.62 of the <i>Local Government Act</i> . A copy of this section is provided in Annexure 1.
<b>City property</b>	The property and other resources of the City of Belmont including its human resources
<b>designated employee</b>	Means: (a) the CEO; (b) an employee, other than the CEO, to whom any power or duty has been delegated under Division 4 of Part 5 of the <i>Local Government Act</i> ; (c) an employee who is a member of a committee comprising council members and employees; and (d) an employee nominated by the City to be a designated employee (see section 5.74 of the <i>Local Government Act</i> ).
<b>employee</b>	A person employed by the City of Belmont
<b>financial interest</b>	A person has a financial interest in the matter if it is reasonable to expect that the matter will, if dealt with by: (a) the City; (b) an employee or committee of the City; or (c) a member of the Council of the City, in a particular way, result in a financial gain, loss, benefit or detriment for the person. The definitions of several of these words, and related terms, are set out in sections 5.59-5.62 of the <i>Local Government Act</i> .

<p><b>gift</b></p>	<p>Section 5.82(4) of the <i>Local Government Act</i> defines gift to mean:  ‘any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel’.</p> <p>For the purposes of this Code of Conduct (and regulation 34B of the <i>Local Government (Administration) Regulations 1996</i>), a gift does not include:</p> <ul style="list-style-type: none"> <li>(a) a gift from a relative as defined in section 5.74(1) of the <i>Local Government Act</i>;</li> <li>(b) a gift that must be disclosed under regulation 30B of the <i>Local Government (Elections) Regulations 1997</i>; or</li> <li>(c) a gift from a statutory authority, government instrumentality or non-profit association for professional training.</li> </ul>
<p><b>good faith</b></p>	<p>Means:</p> <ul style="list-style-type: none"> <li>(a) acting fairly;</li> <li>(b) disclosing all relevant conflicts of interests</li> <li>(c) acting in an unbiased and impartial manner;</li> <li>(d) making all decisions without preconceptions of the outcome of the decisions;</li> <li>(e) making decisions on reasonable grounds; and</li> <li>(f) taking into account all relevant considerations based on the evidence before you.</li> </ul>
<p><b>impartiality interest</b></p>	<p>Means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association (see regulation 34C(1) of the <i>Local Government (Administration) Regulations 1997</i> and regulation 11(1) of the <i>Local Government (Rules Of Conduct) Regulations 2007</i>.</p>
<p><b>misconduct</b></p>	<p>See Annexure 2 to this Code of Conduct.</p>
<p><b>notifiable gift</b></p>	<p>In relation to a person who is an employee, means:</p> <ul style="list-style-type: none"> <li>(a) a gift worth between \$50 and \$300; or</li> <li>(b) a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth between \$50 and \$300 (see section 34B(1) of the <i>Local Government (Administration) Regulations 1996</i>).</li> </ul> <p>A similar definition, in relation to a person who is an elected member, is set out in regulation 12 of the <i>Local Government (Rules of Conduct) Regulations 2007</i>.</p>
<p><b>prescribed dealing</b></p>	<p>Means a dealing that involves:</p> <ul style="list-style-type: none"> <li>(a) a purchase or sale of real property;</li> <li>(b) an acquisition or disposal of any leasehold or beneficial interest in real property;</li> <li>(c) an acquisition or disposal of a licence over real property;</li> </ul>

	<p>(d) a proposal to develop land or buildings, within the City, other than:</p> <p>(e) a dealing relating to your principal place of residence; or</p> <p>(f) a purchase or sale of an interest in a business operating in the City or with interests in real property in the City.</p>
<b>prohibited gift</b>	<p>In relation to a person who is an employee, means:</p> <p>(a) a gift worth \$300 or more; or</p> <p>(b) a gift that is one of two or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more (see regulation 34B(1) of the <i>Local Government (Administration) Regulations 1996</i>).</p> <p>A similar definition, in relation to a person who is an elected member, is set out in regulation 12(1) of the <i>Local Government (Rules of Conduct) Regulations 2007</i>.</p>
<b>relative</b>	<p>Section 5.74(1) of the <i>Local Government Act</i> defines ‘relative’ as follows: “<b>relative</b>”, in relation to a relevant person, means any of the following -</p> <p>(a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person’s spouse or de facto partner;</p> <p>(b) the relevant person’s spouse or de facto partner or the spouse or de facto partner of any relative specified in paragraph (a),</p> <p>whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person’s birth or subsequently, and whether the relationship is a natural relationship or a relationship established by a written law’.</p>
<b>team members</b>	<p>Means elected members, committee members, the CEO, members of Senior Management Group and other employees.</p>
<b>value</b>	<p>Estimated or assigned worth*</p> <p>*A determination on the value of a gift can generally be made by enquiry</p>

## ANNEXURE 1

### Definition of ‘Closely associated persons’ in the *Local Government Act 1995*

Section 5.62 of the *Local Government Act 1995* states:

#### 5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
- (a) the person is in partnership with the relevant person; or
  - (b) the person is an employer of the relevant person; or
  - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
  - (ca) the person belongs to a class of persons that is prescribed; or
  - (d) the person is a body corporate —
    - (i) of which the relevant person is a director, secretary or executive officer; or
    - (ii) in which the relevant person holds shares having a total value exceeding —
      - (I) the prescribed amount; or
      - (II) the prescribed percentage of the total value of the issued share capital of the company,whichever is less;
- or
- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
  - (ea) the relevant person is a council member and the person —
    - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
    - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
- or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
    - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
    - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
- or
- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person’s spouse or de facto partner if the spouse or de facto partner is living with the relevant person.
- (2) In subsection (1) —

**notifiable gift** means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

**value**, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

## ANNEXURE 2

### Definitions of ‘misconduct’ and ‘serious misconduct’ in the *Corruption and Crime Commission Act 2003*

Section 3 of the *Corruption and Crime Commission Act 2003* defines ‘serious misconduct’ to mean ‘misconduct of a kind described in section 4(a), (b) or (c)’.

Section 4 of the *Corruption and Crime Commission Act 2003* states:

#### 4. “Misconduct”, meaning of

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officer’s office or employment;
- (b) a public officer corruptly takes advantage of the public officer’s office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person;
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years’ imprisonment; or
- (d) a public officer engages in conduct that —
  - (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;
  - (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial;
  - (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or
  - (iv) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,

and constitutes or could constitute —

- (v) an offence against the *Statutory Corporations (Liability of Directors) Act 1996* or any other written law; or
- (vi) a disciplinary offence providing reasonable grounds for the termination of a person’s office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).’

## CODE OF CONDUCT DECLARATION

**Declaration:**

I \_\_\_\_\_

have read and understand the City of Belmont Code of Conduct and agree to abide by its terms.

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

*Note: Please sign and date this declaration and return*