

# ARBUTUS PARK RETIREMENT COMMUNITY CONFLICT OF INTEREST AND ETHICAL PRACTICES POLICY

## Article I Duties and Purpose

A director, ex-officio member, or other fiduciary ("Responsible Party") acting for or on behalf of the Arbutus Park Retirement Community (APRC), has a "duty of care" and a "duty of loyalty" to APRC. This means that each Responsible Party is required to make reasonable inquiries and exercise independent judgment when making any decision regarding a business transaction. When it comes to finances and investments, each of these persons must exercise the degree of care, caution and diligence that a prudent person would exercise in handling his or her own personal finances and investments. A Responsible Party who acts in a manner to promote, derive or realize personal Financial Gain or who has a Financial Interest or an Other Interest in a business transaction creates a Conflict of Interest (as those terms are defined below), which could violate such Responsible Party's position of trust and be a breach of such Responsible Party's fiduciary duty to the APRC. A Responsible Party must act in good faith and in the best interests of APRC and must avoid any Conflict of Interest or the appearance of a Conflict of Interest. If a Responsible Party encounters a Conflict of Interest situation, he or she must advise APRC of such Conflict of Interest and must not take part in the discussion or decision-making process in regard to that situation or business transaction.

APRC adopts this Conflict of Interest and Ethical Practices Policy to promote and protect the best interests of the organization. This Policy attempts to identify potential Conflict of Interest situations and establishes the steps a Responsible Party must take when encountering a Conflict of Interest. This Policy is intended to supplement but not replace any federal and state laws governing conflicts of interest applicable to not-for-profit and charitable corporations.

## Article II Definitions

1. **Conflict of Interest.** A Conflict of Interest occurs when a Responsible Party uses his or her office, employment or position (i) to obtain, disseminate, sell, offer, give or provide any confidential information of the APRC or (ii) to receive, derive or realize a Financial Gain or promote a Financial Interest inuring to the benefit of the Responsible Party, his dependents, a member of his or her household or an economically related third party. A Conflict of Interest also can result from certain Other Interests as defined in 4. below.
2. **Conflicted Person.** A Conflicted Person is a Responsible Party who stands directly or indirectly to derive or realize personal Financial Gain or who has a Financial Interest or an Other Interest in an APRC Business Transaction.
3. **Financial Gain.** A person derives or realizes personal financial gain if he or she, a dependent or member of his or her household or an economically related third party may directly or indirectly receive an economic benefit as a result of a APRC Business Transaction.
4. **Financial Interest.** Any present or planned financial or economic interest in a not-for-profit entity or an entity engaged in business for profit with which the APRC does business in which a Responsible Party is (i) employed or receives some form of Compensation, (ii) owns or controls a 5% or greater interest in the equity of such entity, or (iii) owns or controls a 5%

or greater interest in the indebtedness of any such for profit or not-for-profit entity. For purposes of this policy, a Financial Interest does not include being a charitable gift annuitant or charitable remainder trust beneficiary of APRC in connection with any transaction or arrangement which, at the time it was entered into, was in compliance with APRC's Planned Giving Policy.

5. **Other Interest** An Other Interest exists when a Responsible Party, a dependent, or a member of his or her household has a fiduciary duty to another business or organization that does or seeks to engage in a Business Transaction with APRC, and a Conflict of Interest exists when that Responsible Party, dependent or household member is involved in the evaluation of, or decision to, approve such Business Transaction or arrangement on behalf of both APRC and such other business or organization.
6. **Compensation.** Compensation includes any direct or indirect receipt of earned income, money or thing of value by, or the forbearance or forgiveness of indebtedness to, a Responsible Party as an employee, independent contractor, consultant, or otherwise. It also includes prizes, gifts, favors or other benefits that, in the judgment of the Board, are substantial in nature or amount to the degree that the Responsible Party is or may appear to be influenced.
7. **Business Transaction.** A business transaction includes all completed, existing, proposed, or reasonably anticipated agreements, relationships or arrangements for the investing of assets, for contributions by APRC, or for the contracting, procuring, sale, purchase, acquisition, exchange, financing, promoting, use, lending or disposal of services, supplies, personal or real property or other business services or assets by APRC.

### **Article III** **Procedure**

1. If a Conflicted Person becomes aware of a Conflict of Interest that has or will arise at a Board or committee meeting, such Conflicted Person must advise the chairperson of the meeting and the Administrator of such Conflict of Interest. A Conflicted Person must excuse himself or herself and shall not be present during the discussion or vote; however, the chairperson of the meeting may, in his or her discretion, invite the participation of the Conflicted Person in the discussion, after making appropriate disclosures. A Conflicted Person shall not use his or her personal influence in connection with the decision or resolution of such pending Business Transaction or situation in which he or she has a Conflict of Interest.
2. A Responsible Party who thinks that he or she or any other Responsible Party may have a potential Conflict of Interest may request the Executive Committee to make a determination. If such a potential Conflict of Interest is raised at a committee meeting, the chair, in his or her discretion after considering the importance of the matter under consideration and the relevance of the potential Conflict of Interest, shall determine the level and nature of participation of such potentially Conflicted Person.
3. Upon receipt of such request, the Executive Committee shall make a determination of whether a Conflict of Interest exists. The Responsible Party requesting the determination must provide sufficient facts to enable the Executive Committee to make a determination. The Executive Committee shall have the right to request additional facts from the Responsible Party or alleged Conflicted Person and to conduct independent investigations to obtain sufficient facts to permit it to make a decision. The Executive Committee shall be entitled to consider the matter

in executive session; however, the determination must be reported at an open meeting. The Executive Committee may make a determination that a Conflict of Interest or potential Conflict of Interest is not material and therefore permit the Business Transaction and/or participation of the Conflicted Person in decision-making on the matter. Any Responsible Party or the alleged Conflicted Person shall have the right to appeal the determination of the Executive Committee to the Board of Directors. The decision of the Board of Directors shall be final and non-appealable. If a Conflict of Interest is determined to exist, the Executive Committee shall reconsider any completed business transaction in which the Conflict of Interest was involved to determine whether such transaction is in the best interests of APRC. The Executive Committee shall regularly and not less than annually report on the resolution of any identified Conflicts of Interest to the Board of Directors of APRC. Any undisclosed Conflicts of Interest shall be subject to disciplinary action by the Board of Directors in accordance with the provisions of the Bylaws.

4. Any participation of a Conflicted Person in the discussion of a Business Transaction and any other act, omission or participation by that Conflicted Person in that Business Transaction which has been authorized in accordance with this Policy will be deemed conclusively to be consistent with the fiduciary obligations of that Conflicted Person to APRC. Any action taken reasonably and in good faith by any Responsible Parties other than the potentially Conflicted Person in applying the provisions of this Policy will be deemed conclusively to be consistent with their fiduciary obligations to APRC. A potential Conflict of Interest will not be considered to be a violation of any fiduciary duty owed to APRC if it is expressly waived on behalf of the APRC after appropriate disclosure and in accordance with the procedures specified above, any other provision of this Policy to the contrary notwithstanding.

#### **Article IV** **Ethical Practices Policies**

A Responsible Party must act in an ethical manner to promote the best interests and general welfare of the APRC. It is APRC's policy to at all times operate in a manner consistent with its charitable purposes and not to engage in activities that could jeopardize its status as an organization exempt from Federal Income Tax or result in private inurement or impermissible private financial gain or benefit. A Responsible Party shall not act in a manner that would jeopardize the charitable status of APRC, and acknowledges that the use of APRC funds and assets to or on behalf of political parties, incumbents of political offices, or candidates for political office or to influence legislation is prohibited. A Responsible Party acknowledges that it is the APRC's policy to maintain at all times prudent accounting controls and to produce annual financial statements in accordance with generally accepted accounting principles. A Responsible Party shall not conceal material information from the APRC's independent auditors. A responsible Party must accept no gifts, entertainment or other emoluments that would influence his or her decision in regard to any APRC's Business Transaction. No Responsible Party with access to confidential information about the APRC's, its depositors or its contributors may disclose such information to any third party without the prior express written authorization of the Executive Committee or as may be required by compulsory process of law.

#### **Article V** **Annual Statement**

Each Responsible Party shall be required annually to sign and return to APRC a Conflict of Interest Statement substantially in the form accompanying this Policy. Such annual statement

shall affirm that such Responsible Party has received a copy of the Conflict of Interest Policy and has read, understands and has complied with this Conflict of Interest Policy.

**Article VI**  
**Administration**

If any person is unsure of the application of this Policy, such person will promptly consult the Administrator or Chairman of the Board of Directors and shall be afforded the opportunity for direct discussion with the APMC's legal counsel. Administration of this policy is delegated to the Executive Committee by the Board of Directors.

This Policy is adopted by the Board of Directors this \_\_\_\_th day of \_\_\_\_\_2004.

# Arbutus Park Retirement Community

## Conflict of Interest Statement

Arbutus Park Retirement Community ("APRC") has adopted a Conflict of Interest and Ethical Practices Policy (the "Policy") to guide each director and volunteer ("Responsible Party") in situations where his or her varied interest may present a conflict of interest with the best interests of APRC. The policy requires an annual statement from each Responsible Party in the form which follows. In order to encourage full reporting of potential conflicts without unduly intruding on the privacy of such Responsible Party, matters reported shall be treated confidentially and disclosed only to the extent necessary to administer the policy properly. The Responsible Party should refer to the Policy in executing this annual statement.

### Certification:

I reaffirm that I have read and understand the Conflict of Interest and Ethical Practices Policy, and I confirm, to the best of my knowledge, that during this Reporting Period I was in compliance with the policy, and in, keeping with the spirit and purpose of the Policy, I have previously disclosed or do hereby disclose the following as existing or potential Conflicts of Interest.

Disclosures, if any:

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Responsible Party's Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
APRC position or title

