

SECTION: COUNCIL
SUBSECTION: POLICIES AND PROCEDURES (2016)
SUBJECT: CODE OF CONDUCT FOR COUNCIL MEMBERS

POLICY STATEMENT:

1.0 PURPOSE

- 1.1 Protect the public interest
- 1.2 Establish standards of behaviour among Members of Council.
- 1.3 Provide a universal understanding of the fundamental rights, privileges, and obligations of Members of Council.
- 1.4 Provides a means for Members of Council to obtain authorization for some contemplated conduct in circumstances where they are uncertain as to the appropriateness of that conduct.
- 1.5 Set out the means of correcting standards of behaviour.
- 1.6 Members of Council are elected community representatives. Therefore, they must discharge their duties in a manner that recognizes a fundamental commitment to the well-being of the community and the regard for the best interests of the Municipality.
- 1.7 The importance of this policy:
 - a) Ensures equitable treatment of citizens;
 - b) Ensures equitable treatment of employees;
 - c) Communicating corporate priorities to employees;
 - d) Ensuring compliance with statutory requirements;
 - e) Minimize liability risks;
 - f) Ensures accountability at all levels;
 - g) Ensures optimal use of available resources;

2.0 BACKGROUND

- 2.1 This Code of Conduct is a public declaration of the standards of behaviour that we the Members of Council of the Township of Perth East have decided its stakeholders could reasonably expect of us as Members of Council to demonstrate in the performance of our responsibilities as elected community representatives.
- 2.2 Attaining an elected position within one's community carries significant responsibilities and obligations. Members of Council are held to a high standard as leaders of the community and they are expected to become well informed on all aspects of municipal governance, administration, planning and operations. They are also expected to carry out their duties in a fair, impartial, transparent and professional manner.
- 2.3 The key stakeholders represent a broad base of interests and concerns which require fair and open attention, adjudication and disposition.
- 2.4 These key stakeholders include but are not limited to:
 - a) Residents;
 - b) Taxpayers;
 - c) Other members of Council;
 - d) Municipal Staff;
 - e) Province of Ontario;

- f) Government of Canada;
- g) School Board and Other Public Agencies;
- h) Suppliers;
- i) Members of Boards and Committees;

2.5 To assist the Members of Council of the Township of Perth East in interacting effectively with all stakeholders, the following obligations are expected of each member:

- a) That they solemnly promise, declare and carry out their responsibilities as prescribed in the oath of office;
- b) That they familiarize themselves with and follow the Procedural By-law;
- c) That they read and acknowledge the Roles and Responsibilities of Council and Senior Management Policy;
- d) That they read and acknowledge the Accountability and Transparency Policy;
- d) That they adhere to the provisions of the Municipal Act, as amended, the Planning Act and pertinent legislation, and read and follow the Municipal Conflict of Interest Act.

3.0 POLICY STATEMENT

3.1 Local Government is an open, accessible, and accountable form of government. The relationship of public trust and mutual respect that has evolved between government and the public requires high standards of behaviour by Members of Council.

4.0 STANDARDS OF CONDUCT

- 4.1 Members of Council must not make improper use of information acquired or improper use of their position as a Member of Council.
- 4.2 Members of Council are to act honestly and with reasonable care and exercise due diligence in the performance and discharge of official functions and duties.
- 4.3 Members of Council shall, at all times, seek to advance the common good of the community which they serve and act in the best interest of the Municipality and in such a way that the credibility of the Municipality is not compromised.
- 4.4 Members of Council shall truly and impartially exercise the duties of office to the best of their knowledge and ability.
- 4.5 Members of Council shall perform the functions of office in an honest, and transparent manner.
- 4.6 Members of Council shall refrain from conduct that contravenes Federal or Provincial statutes or legislation pertaining to municipal business or governance, the Planning Act and pertinent legislation, the Municipal Act, Municipal by-laws, associated regulations and the Municipality's Code of Conduct.

5.0 PRINCIPLES OF THIS CODE OF CONDUCT

5.1 Conflict of Interest

Members of Council shall be responsible to ensure that they are familiar with the application of the Municipal Conflict of Interest Act, as amended. It shall be the responsibility of each Member of Council, not staff, to determine whether they have a direct or indirect pecuniary interest with respect to matters arising before Council.

5.2 Confidentiality

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with in closed session meetings or that is determined to be confidential by the Chief Administrative Officer, Clerk or as specifically declared by Council. A Member of Council shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the closed session deliberations to anyone, unless expressly authorized by Council or required by law to do so.

Specifically Members of Council shall not:

- a) Release information in contravention of the provisions of the Municipal Freedom of Information and Protection of Privacy Act,
- b) Release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so; and
- c) Misuse confidential information acquired by virtue of their position as an elected member that could cause benefit or detriment to the Corporation, Members of Council, Municipal Staff and the public.
- d) If a Member of Council is found to be in violation of the confidentiality provisions of this Code of Conduct, the Member of Council will be reprimanded as per section 12 of this Code of Conduct and disallowed from participating in Closed Session meetings and will cease to receive the distribution of confidential material.

5.3 Gifts and Benefits

- a) Members of Council are not to accept or solicit gifts, entertainment, or other benefits from any individuals or from any profit-making or non-profit organizations or associations which have business dealings with the Municipality. No Member of Council shall place him/herself in a position where he/she could derive any benefit from any Municipal contracts or organizations with whom the Municipality does business.
- b) The rule in (1) above is subject to the following exceptions:
 - infrequent business meals, if the meal is necessary for the completion of some task, and it would be impractical or socially awkward for the Member of Council to pay for his or her own meal separately;
 - Infrequent attendance or participation in social or sporting events in the company of a business contact, if approval is granted in advance by the Mayor;
 - Donations toward charitable events or causes, including municipal projects and other municipal undertakings;
 - Business gifts having a value less than seventy five dollars (\$75.00), which are given as promotional items to individuals or project teams, provided the gifts do not include money or negotiable instruments;
 - If the gift has absolutely no relationship with the status of the recipient as a Member of Council (i.e. there is another relationship between the donor and recipient which caused the gift to be made);
 - The gift is a randomly distributed gift such as a door prize which is won by a Member of Council attending a conference, training session, or other event on behalf of the municipality; or,
 - The gift is an honorarium or other gift given in recognition for speaking at a seminar, conference, symposium or a similar event.
- c) Unless the circumstances in (b) above apply, if a Member of Council receives gifts, entertainment and benefits having value over seventy five dollars (\$75.00), the gifts, entertainment or benefits must be disclosed to the Mayor and/or CAO using a Gift Declaration Form.

- d) In the event that a gift, an opportunity for the receipt of entertainment (such as a ticket), or some other benefit is delivered to a Member of Council in circumstances where:
- Acceptance by the Member of Council would contravene this policy;
 - He or she was unable or failed to refuse it at the time of delivery; and
 - It is impractical for an employee to return it to the donor:

The Member of Council shall advise the Mayor and/or CAO who shall make arrangements for it to be given to charity or raffled off with all staff having the same opportunity for inclusion. A Member of Council who fails to report a gift, entertainment or benefit that was received outside of the listed exclusions of this policy may be reprimanded.

5.4 Use of Corporate Property and Resources

Members of Council must not use the Township of Perth East property, equipment, supplies or services which are not available to the general public or for purposes not associated with the discharge of their official duties.

5.5 Communications and Media Relations

Members of Council will accurately and adequately communicate the decisions of the Council of the Township of Perth East, even if they disagree with a majority decision of Council so that:

- a) There is respect for the decision making processes of Council; and
- b) Official information related to decisions and resolutions made by Council will normally be communicated in the first instance to the community and the media in an official capacity by the Mayor or designate.
- c) No member of Council shall purport to speak on behalf of Council unless he or she is authorized by Council to do so

5.6 Conduct Respecting Staff

- a) Only Council as a whole has the authority to approve budgets, policies, committee processes and other matters. Members are not permitted to individually direct the actions of staff, except as authorized by Council;
- b) Members of Council should be respectful that staff work for the corporate body and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any individual member or group of members;
- c) Members of Council shall be respectful of the fact that staff carry out directions of Council and administer the policies of the municipality and are required to do so without any undue influence from any individual member or group of members.
- d) No member of Council shall maliciously or falsely injure the professional reputation of staff, and all members of Council shall have respect for the professional capabilities of the staff of the Municipality;
- e) Members of Council shall refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others; and
- f) Members of Council shall refrain from publicly criticizing individual members of staff in a way that casts aspersions on their professional competence and credibility.

5.7 Conduct Respecting Council

- a) Members of Council shall conduct themselves at Council meetings in accordance with the provisions of the Township Procedural By-Law.
- b) A member of Council who expresses disagreement with a decision of Council shall make it clear that he or she is expressing a personal opinion.

5.8 Election Campaign/Use of Corporate Resources

The Municipal Elections Act, prohibits a Municipality from making a contribution to a candidate. The Act also prohibits the candidate, or someone acting on the candidate's behalf, from accepting a contribution from a person who is not entitled to make a contribution. Since contributions may take the form of money, goods, or services, any use by a Member of Council of the Municipality's resources for his/her election campaign would be viewed as a contribution and, therefore, a violation of the Act.

Members of Council shall not:

- a) Use corporate resources (including business cards, Municipality letterhead, etc.) and funding for election-related purposes;
- b) Enlist the use of staff to work in support of a municipal candidate during working hours unless they are on a leave of absence without pay, lieu time, floating holiday, or vacation leave;
- c) Use a constituency office or any municipally-provided facilities for election-related purposes, which includes the display of any campaign related signs in a window or on the premises, as well as displaying any election-related material in the office;
- d) Print or distribute any material paid for by the Municipality that illustrates that a Member of Council or any other individual is registered in any election or where they will be running for office;
- e) Profile, or make reference to, in any material paid by the Municipality, any individual who is registered as a candidate in any election;
- f) Print or distribute any material using municipal funds that makes reference to, or contains the names or photographs, or identifies registered candidates for municipal elections; minutes of Council and/or Committee meetings being exempt;
- g) Use the Municipalities voicemail system to record election-related messages;
- h) Use the Municipalities website for election-related campaign material, inclusive of establishing links on the Municipalities website to a registered candidate's website, email, or blog.

The following shall be discontinued for the Members of Council from the day prior to Nomination Day in a municipal election year to Election Day:

- a) All forms of advertising, including municipal publications, paid for by the Municipality;
- b) All printing, photocopying and distribution, including printing and general distribution of newsletters unless so directed and approved by Council; and
- c) The ordering of business cards and other stationary.

5.9 Transparency & Openness in Decision Making

Members of Council will endeavour to conduct and convey Council business in an open and public manner (other than confidential matters) so that stakeholders can obtain the process, logic and rationale which were used to reach conclusions or decisions.

6.0 PERSONAL BEHAVIOUR

- 6.1 All members of Council have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All members of Council shall ensure that their work environment is free from discrimination and personal and sexual harassment.
- 6.2 Members of Council shall familiarize themselves with the Ontario Human Rights Code, the municipalities Workplace, Violence and Harassment Program and the Occupational Health and Safety Act in ensuring that the Township of Perth East is a violence, harassment and discrimination free workplace.
- 6.3 Harassment which occurs in the course of, or is related to, the performance of Official Duties by Members of Council is subject to this Code. If an employee or a member of the public brings forward a harassment complaint against a Member of Council, the complaint procedure under the municipalities Workplace, Violence and Harassment policy will apply.
- 6.4 A Member of Council has the right to expect a working environment that is free from harassment, discrimination and violence. If a Member of Council experiences harassment, discrimination and/or violence during the course of their official duties, a complaint shall be filed under the municipalities Workplace, Violence and Harassment program.

7.0 PUBLIC INPUT

- 7.1 Council will periodically use formal and informal opportunities to seek public input as a component of the decision making process which have broad impacts on the community.
- 7.2 The purpose of the exercise will be to provide stakeholders with a mechanism to provide opinions and advice so that the widest range of views and information is available before final decisions are made.

8.0 PROFESSIONAL DEVELOPMENT

- 8.1 Members of Council have a responsibility to promote, support, pursue and partake in opportunities for professional development. Members of Council will be compensated for these activities as per the Council Remuneration By-Law, including but not limited to:
 - a) AMO Conference;
 - b) Ministry of Municipal Affairs and Housing Seminars;
 - c) Provincial Professional Association Training Institutes (OGRA, AMCTO, FCM, etc.);
 - d) Provincial/Municipal Council Orientation Sessions;
 - e) Members of Council are required to stay updated on issues and trends so that they can be as efficient and effective as possible in the carriage of their duties and responsibilities.

9.0 COUNCIL'S OBJECTIVES

- 9.1 Members of Council and Municipal Staff will seek to achieve a team approach in an environment of trust and acceptance of their different roles contained within the Roles and Responsibilities of Council and Senior Management Policy.

10.0 IMPLEMENTATION

- 10.1 A Code of Conduct orientation will be included as part of the Council Orientation workshop for each new Council.

- 10.2 Members of Council are expected to formally and informally review their adherence to the provisions of the Code of Conduct on a regular basis or when so requested by Council.

11.0 ENFORCEMENT

- 11.1 Council may direct the Clerk to appoint an Integrity Commissioner in accordance with Section 223.3 of the Municipal Act, S.O. 2001, c.25.
- 11.2 Upon receipt of a formal complaint alleging that the Code of Conduct has been contravened, the Clerk shall follow the procedures contained within Section 12.0 of this Code of Conduct.

12.0 COMPLAINT PROCEDURE

A INFORMAL COMPLAINT PROCEDURE

Individuals are encouraged to use the informal complaint procedure in an effort to address behaviour or activity that they believe may be in violation of the Code of Conduct. The informal procedure involves:

1. Advising the Member of Council that their activity or behaviour appears to contravene the Code of Conduct;
2. Encouraging the Member of Council to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
3. Documenting the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.
4. Requesting the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member of Council in an attempt to resolve the issue;
5. If applicable, confirming to the Member of Council your satisfaction with their response, or, if applicable, advising the Member of Council of your dissatisfaction with their response.
6. If the matter has been successfully taken care of during the informal complaint procedure, the Member of Council and the Complainant may agree on an acceptable form of discipline (ie: a formal apology to Council).
7. Consider the need to pursue the matter in accordance with the formal complaint procedure.

A member of Council wishing to file a formal complaint is encouraged to initially pursue the Informal Complaint Procedure as a means of stopping and remedying the behavior or activity that is inconsistent with the Code of Conduct. However, it is not a precondition or prerequisite that the complainant pursue the Informal Complaint Procedure prior to pursuing the Formal Complaint Procedure.

B FORMAL COMPLAINT PROCEDURE: Integrity Commissioner

1. Request for Inquiry
Where a Council, member of Council, or a member of the public have reasonable and probable grounds to believe that a member of Council has contravened the Code of Conduct they may request that the matter be reviewed by the Integrity Commissioner.
2. Complaint
The request shall be in writing and shall set out the grounds for the belief of the alleged contravention and including a supporting affidavit that states evidence

in support of the complaint. For example, facts should include the name of the alleged violator, the provision allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information respecting the complainant during normal business hours. The Clerk, CAO and Treasurer are authorized to take the supporting affidavit.

3. Initial Classification by Integrity Commissioner

3.1 Request

The request shall be filed with the Clerk who shall forward the matter to the Integrity Commissioner for initial classification with respect to non-compliance with the Code of Conduct.

3.2 Incomplete Request

If the complaint does not include a supporting affidavit, the request will be deemed incomplete and returned to the complainant by the Clerk.

3.3 Requests not Applicable to the Code of Conduct

If the complaint, including the supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or constitutes a complaint that should be pursued under other legislation, the Integrity Commissioner shall instruct the Clerk to advise the complainant in writing as follows:

- a) If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that the proper recourse is to pursue the matter with the appropriate Police Force;
- b) If the complaint on its face is with respect to non-compliance with the *Municipal Conflict of Interest Act*, the complainant shall be advised to pursue the matter with their own legal counsel;
- c) If the complaint is more appropriately addressed with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the Clerk for Access and Privacy review.
- d) If the complaint seems to fall under another policy, the complainant shall be advised to pursue the matter under such policy.
- e) If the complaint, on its face, is not with respect to non-compliance with matters described in (a), (b), (c) or (d) above, but is not within the jurisdiction of the Integrity Commissioner, the complainant shall be so advised.

3.4 Reports

The Integrity Commissioner shall report to Council when a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose confidential information that could identify a person concerned.

4. Integrity Commissioner's Investigation

4.1 Refusal to Conduct Investigation

The Integrity Commissioner shall terminate the investigation if in his or her opinion the matter is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation. The Integrity Commissioner shall report to Council that a specific complaint has been terminated, but shall not disclose confidential information that could identify a person concerned.

4.2 Investigation

If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under the previous section, the Commissioner shall conduct an investigation.

The Integrity Commissioner will proceed as follows:

- a) Bearing in mind the confidentiality requirements of the *Municipal Act*, it will be at the discretion of the Integrity Commissioner whether to disclose the identity of the complainant to relevant parties in order to facilitate the investigation. Any party to this investigation who is made aware of the identity of the complainant is bound to maintain the secrecy of the complainant and to not use this information for any purpose other than to provide a full answer or defense to the complaint.
- b) File a copy of the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation by way of affidavit be filled within ten working days; and
- c) Serve a copy of the response provided upon the complainant with a request for a written reply within ten working days.
- d) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, examine any other documents relevant to the complaint and may enter any Municipal work location relevant to the complaint for the purposes of investigation.
- e) The Integrity Commissioner may make interim reports to Council as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

4.3 Final Report

- a) The Integrity Commissioner shall report to the complainant and the member no later than 90 days after the filing of the complaint with the Clerk.
- b) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings and when applicable, recommend corrective action, while maintaining the confidentiality of the complainant.
- c) Where the complaint is dismissed, the Integrity Commissioner shall report to Council, maintaining the confidentiality of any information which could identify a person concerned.

4.4 Lawful Recommendations

Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behavior or activity does not continue.

4.5 Member not Blameworthy

If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall provide a report to Council and shall make recommendation with respect to any corrective action, having regard for the findings.

4.6 Copies

The Clerk shall give a copy of the report to the complainant and the member whose conduct is the subject of investigation.

4.7 Report to Council

The Clerk shall process all reports of the Integrity Commissioner to the next available meeting of Council.

4.8 Publication of Reports

The Clerk shall ensure that reports received from the Commissioner by the municipality are made available to the public.

5. Council Review

5.1 Duty of Council

Council shall consider and respond to the report within 90 days after the day the report is presented at a meeting of Council.

5.2 Penalties

Council may impose one of the following penalties on a member of Council if the Integrity Commissioner reports that in his or her opinion, the member has contravened the Code of Conduct:

- a) A reprimand, including, but not limited to
 - removal from Committee assignments, either permanently or for an interim period,
 - barring the Member from attendance at closed session meetings either permanently or for an interim period,
 - barring the Member from being circulated/informed of confidential materials/matters,
 - demand of a public apology.
- b) Suspension of the remuneration paid to the Council Member in respect of his or her services as a Member of Council, as the case maybe, for a period of up to 90 days.

TOWNSHIP OF PERTH EAST

COUNCIL CODE OF CONDUCT

Appendix A Council Code of Conduct Disclosure Statement Acceptance of Gifts and Benefits

This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk within 30 days of receipt of such gift or benefit, or upon reaching the annual limit. Disclosure Statements are a matter of public record.

Nature of Gift or Benefit Received:

Source of Gift or Benefit:

Circumstances Under Which Gift or Benefit Received:

Estimated Value of Gift or Benefit: \$ _____

Date Gift or Benefit Received: _____

Signature of Member: _____ Date: _____

Date Statement Received by Clerk: _____

TOWNSHIP OF PERTH EAST

COUNCIL CODE OF CONDUCT

Appendix B Council Code of Conduct – Formal Complaint Form/Affidavit

AFFIDAVIT OF _____ (full name)

I, _____ (full name), of the (City, Town etc.)

_____ (municipality of residence) in the Province of Ontario.

MAKE OATH AND SAY (or AFFIRM):

1. I have personal knowledge of the facts as set out in this affidavit, because

(insert reasons e.g. I work for... I attended a meeting at which... etc.)

2. I have reasonable and probable grounds to believe that a member of the **Township of Perth East** Council _____ (specify name of member)

Has contravened section (s) _____ (specify section(s))

of the Council Code of Conduct of the **Township of Perth East**. The particulars of which are as follows:

This affidavit is made for the purpose of requesting that this matter be reviewed by the Township of Perth East appointed Integrity Commissioner and for no other purpose.

SWORN (or AFFIRMED) before me at the _____)

_____ (City, Town etc. of))

in the Province of Ontario on _____)

_____ (date))

(Signature of Commissioner)

A Commissioner for taking affidavits etc.

(Signature)

Please note that signing a false affidavit may expose you to prosecution under Sections 131 and 132 or 134 of the Criminal Code, R.S.C. 1985, c. C-46 and also to civil liability for defamation.