



## POLICY

<b>DIVISION:</b>	Warden, CAO, Clerk and Archives		
<b>DEPARTMENT:</b>	Clerk's Department	<b>POLICY SECTION:</b>	
<b>SUBJECT:</b>	Council Code of Conduct		
<b>POLICY NUMBER:</b>	CLK 8.0.1	<b>EFFECTIVE DATE:</b>	October 9, 2018

### 1. PURPOSE

- 1.1 Members recognize that ethics and integrity are at the core of public confidence in government and in the political process; that elected officials are expected to perform their duties in office and arrange their personal business in a manner that promotes public confidence, avoids the improper use of influence of their office and any conflicts of interests. They shall recognize the need to uphold both the letter and the spirit of the law including policies adopted by Council.
- 1.2 This Council Code of Conduct provides a standard and common basis for acceptable conduct and is intended to guide Members of County Council in performing their role of representing the citizens of Simcoe County as a whole.

### 2. POLICY STATEMENT

- 2.1 The Municipal Act, 2001 authorizes municipalities to establish a Code of Conduct for its members of Council and its local boards.

This Council Code of Conduct is a general standard that augments Provincial laws, municipal policies and by-laws that govern conduct. These guidelines are not intended to be exhaustive. They are intended to assist members of Council in matters of conduct, to avoid any potential for conflict of interest and to assist members in serving the public in a manner beyond reproach.

### 3. FRAMEWORK AND INTERPRETATION

- 3.1 The Code of Conduct shall apply to all members of County Council and members of its Local Boards as well as Committees of Council (as defined in the Municipal Act). Any reference used herein to members of Council also refers to members of the Committees and Local Boards of the County.
- 3.2 It is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document the Code of Conduct will be brought forward for review at the end of each term of Council, when relevant legislation

is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.

- 3.3 Commentary and examples used in this Code of Conduct are illustrative and not exhaustive. From time to time additional commentary and examples may be added by the Integrity Commissioner. When commentary and examples are added the Integrity Commissioner shall circulate such information directly to Members of Council and shall provide same to the Clerk for consolidation into this Code of Conduct, which consolidation shall be made available to the public on the County's web site. Supplementary materials may also be produced by the Integrity Commissioner as deemed appropriate.
- 3.4 Where an elected official discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that he or she is asked to investigate a complaint.
- 3.5 Elected Officials seeking clarification of any part of this Code may consult with the Integrity Commissioner.

#### **4. DEFINITIONS**

- 4.1 "child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family.
- 4.2 "County" means the Corporation of the County of Simcoe.
- 4.3 "County Property" means items, services or resources which are the property of the County, including but not limited to: materials, equipment, vehicles, facilities, technology, County-developed computer programs or technological innovations, databases, intellectual property, County-owned images, logos, coat of arms, and supplies.
- 4.4 "Clerk" means the County Clerk for the Corporation of the County of Simcoe.
- 4.5 "family member" means child, parent and spouse as defined in the Municipal Conflict of Interest Act, and includes mother-father/sister/brother /daughter/son-in-law, step-child, sibling, grand-child, aunt/uncle, niece/nephew and first cousins.
- 4.6 "Local Board" means a local board as defined in Section 223.1 of the Municipal Act, 2001 and includes the Simcoe County Housing Corporation Board.
- 4.7 "member" means members of Council its Committees and Local Boards of the County, and includes external appointees.

- 4.8 “personal benefit” means forms of advantage other than financial such as seeking an appointment, promotion or transfer within the Corporation on behalf of a family member and includes the private interests of a Member.
- 4.9 “staff” includes General Managers, Directors, Managers, Supervisors, technical, administrative, clerical, unionized and non-unionized personnel, full-time, part-time, seasonal, contract, temporary, students and volunteers.
- 4.10 “nomination day” means the last day for filing or withdrawing a nomination as provide for by the Municipal Elections Act, 1996.
- 4.11 “non-disqualifying interest” and “disqualifying interest” have the meanings ascribed to those terms in the provision on Avoidance of Conflict of Interest, and the latter includes what is sometimes referred to as an ‘apparent conflict of interest’.

## **5. RESPONSIBILITY AND IMPLEMENTATION**

- 5.1 All County Councillors shall be responsible for ensuring that the principles of this policy are upheld.
- 5.2 Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter, so long as all the relevant facts were disclosed to the Integrity Commissioner, and the Member adhered to the advice given.
- 5.3 Members are expected to formally and informally review their adherence to the Code on a regular basis or when so requested by Council.
- 5.4 At the beginning of each term, Members will be expected to meet with the Integrity Commissioner.

### **Commentary:**

Members are expected to understand the obligations on elections officials set out in this Code of Conduct. A Code of Conduct component will be included as part of the orientation for each new term of Council.

## **6. APPLICATION**

### **6.1 Statutory Provisions Regulating Conduct**

- 6.1.1 The Code of Conduct operates along with and as a supplement to the County’s Procedure By-law which outlines the conduct of members while in attendance at Council proceedings, and other County Policies governing ethical conduct and behaviour of members.

This Code of Conduct operates together with as a supplement to the following legislation:

- a) Municipal Act, 2001, S.O. 2001, c.25;
- b) Municipal Conflict of Interest Act, R.S.O. 1990, c.M. 50;
- c) Municipal Freedom of Information and Protection of Privacy Act, R.S.). 1990, c.M. 56;
- d) Municipal Elections Act, 1996, S.O. 1996, c.32;
- e) The Occupational Health and Safety Amendment Act (Violence and Harassment in the workplace) 2009;
- f) Human Rights Code;
- g) The County of Simcoe's Procedure By-law, as amended;
- h) The Criminal Code of Canada.

## **6.2 General Rules of Code of Conduct:**

### **6.2.1 Every Member in exercising his or her powers and in discharging his or her Official Duties shall:**

- a) seek to advance the common good of the County of Simcoe;
- b) truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability;
- c) exercise care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
- d) competently exercise his or her office by educating themselves either formally or informally, in matters pertaining to their official duties.
- e) when appointed to committees and other bodies as part of their duties, must make every effort to participate diligently in these bodies with good faith and care;
- f) uphold the law and conduct themselves with the highest degree of ethical behaviour and integrity;
- g) not make statements known to be false or make a statement with the intent to mislead Council or members of the public;
- h) not to impugn or malign a debate or decision or otherwise erode the authority of Council;

- i) ensure discourse is appropriate and professional and shall refrain from indecorous or offensive language and shall avoid personalities;
- j) respect the role of staff in the administration of the business affairs of the County.

### **6.3 Accountability and Transparency**

6.3.1 Members are to be committed to carrying out their County functions with integrity, accountability and transparency.

6.3.2 Members are expected to perform their duties and arrange their public affairs, in a manner that promotes public confidence in the integrity of the Member as well as fosters respect for County Council as a whole.

### **6.4 Confidentiality**

6.4.1 The County is bound by the provisions of both provincial and federal legislation as it relates to protection of privacy and disclosure of information. Members shall not access, use or disclose information in contravention of applicable privacy laws.

6.4.2 The obligation to keep information confidential is a continuing obligation even if the Member ceases to be a Member of Council.

6.4.3 No Member shall:

- a) disclose or release by any means to any person in oral or written form, any confidential information, acquired by virtue of his or her office, except when required by law or authorized by Council to do so;
- b) use confidential information including information that they have knowledge of by virtue of their position that is not in the public domain, including e-mails and correspondence from other Members, or third parties, for personal or private gain, or for the gain of relatives or any person or corporation or to cause detriment to County Council or its Local Boards;
- c) directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of County property or assets;
- d) disclose the content of any such matter, or the substance of deliberations, of a closed (in-camera) meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public;

- e) permit any persons, other than those who are entitled thereto, to have access to information that is confidential;
- f) access or attempt to gain access to confidential information in the custody of the County unless it is necessary for the performance of their duties and not prohibited by policy, legislation, or licensing.

## **6.5 Gift and Benefits**

6.5.1 "Gift" means money, fee, advance, payment, gift, gift certificate, promise to pay, property, travel, accommodation, entertainment, hospitality or any other personal benefit connected directly or indirectly with the performance of a Member's duties of office, but excludes:

- a) Compensation authorized by law;
- b) Political contributions otherwise reported by law, in the case of Members running for office;
- c) Services provided by persons volunteering their time;
- d) Contributions of value that are specifically addressed in other provisions of this Code;
- e) Gifts provided to the County and which are logged, archived and/or publicly displayed as such.

The above is to be read in conjunction with Gift Treatment and Disclosure Schedule B.

6.5.2 This rule is intended to provide transparency around the receipt of incidental gifts and benefits and to establish a threshold whereby the total value could be perceived as potentially influencing a decision. Gifts and benefits are often received by elected officials in the course of their duties and attendance at public functions is expected and considered part of the role. Business-related entertainment and gift-giving can be a token of respect and admiration for the elected official but can also be seen as an instrument of influence and manipulation.

To ensure and foster a culture of impartiality and objectivity, no Member shall directly or indirectly solicit any gift or accept/receive a fee, advance, cash, gift, or personal benefit which may be tied or inferred to be tied directly or indirectly to their position or the performance of his/her duties of office unless permitted by the exceptions listed below.

6.5.3 The following are recognized exceptions:

- a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- b) a suitable memento of a function honouring the Member;
- c) admission to a training or education program, including meals and refreshments furnished to all attendees, if such training or education is related to the member of Council's role;
- d) food, lodging, transportation and entertainment provided by federal, provincial or other local or regional governments or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;
- e) food and beverages consumed at banquets, receptions, or similar events, if:
  - i. attendance serves a legitimate business purpose;
  - ii. the value is reasonable and the invitations infrequent; and
  - iii. the Member is attending with the person extending the invitation or a representative of the organization.
- f) communication to the office of a Member of Council including subscriptions to newspapers and periodicals related to the duties of Office;
- g) business meals.

6.5.4 A fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Family Member or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to that Member.

6.5.5 Members may:

- a) urge constituents, businesses and other groups to support community events put on by others in the Member's municipality or elsewhere in the County;
- b) work with community groups to assist them in finding sponsors and participants to support community events put on by a community group in the Member's municipality or elsewhere in the County;
- c) play an advisory or membership role in any organization that holds community events in the Member's municipality;

d) collaborate with the County and its agencies to hold community events and may participate in events approved by County Council.

6.5.6 Each Member of Council is individually accountable to the public and is encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values.

**Commentary:**

Use of real estate or significant assets or facilities (i.e. a vehicle, office, vacation property or club membership) at a reduced rate or at no cost is not an acceptable gift or benefit. The purpose of the Code is not to prohibit Members from accepting all invitations to socialize at a vacation property with personal friends at their vacation property, provided the Gift is disclosed in accordance with this Rule.

Proper caution and diligence must however be exercised when a social function occurs within close proximity to the individual having an issue before Council or staff for approval.

Any doubts about the propriety of a gift should be resolved in favour of not accepting it or not keeping it.

## **6.6 Use of County Property, Services and Other Resources**

6.6.1 Members may only use County property, including land, facilities, equipment, supplies, services, staff or other resources (for example, County-owned materials, computers, networks, websites) for activities directly connected with the discharge of their official County duties or as appropriate, local municipal duties.

6.6.1.1 Occasional or incidental personal use of County computers or similar devices and communication systems is considered acceptable, subject to the provisions of the Municipal Elections Act. Such use may be subject to the Municipal Freedom of Information and Protection of Privacy Act.

6.6.2 Members shall not obtain personal benefit or financial gain from the use or sale of County property, including County-developed intellectual property (e.g. inventions, creative writings, computer programs and drawings), technological innovations, County owned images, logos, coat of arms, or other items capable of being patented. All such property remains the exclusive property of the County.

6.6.3 The County of Simcoe licenses the use of computer software from a variety of vendors. Software is normally copyrighted and no individual may copy or



distribute the software unless expressly permitted to do so under the applicable license. This applies to the use of personal computer, fax machines, printers, or other electronic or technological devices, etc.

- 6.6.4 Any equipment or supplies purchased by the County to allow a Member to exercise their official County duties (e.g. computer, electronic devices, etc.) is County property and is to be returned to the County upon termination or completion of the member's term.

## **6.7 Political/Election Campaign Activity**

- 6.7.1 Members are required to follow the provisions of the Municipal Elections Act, 1996.

- 6.7.2 Members are required to comply with the County's Social Media Policy.

- 6.7.3 Members must ensure compliance with all legislative requirements and shall not use the facilities, equipment, supplies, services or other resources of the County (including Councillor websites or social media sites linked through the County's website) for any election campaign or campaign-related activities.

- 6.7.4 Additionally, no members shall utilize the services of persons for any political campaign activity during hours in which those persons receive any compensation from the County.

- 6.7.4.1 The only exception to this will be those activities directly associated with election proceedings as prescribed in the County's Procedure By-law or other by-laws (e.g. relating to the election of County Warden, Deputy Warden, Board members, Chairs and/or Vice Chairs of any committees of Council, etc.).

## **6.8 Avoidance of Conflicts of Interest**

- 6.8.1 Members shall recognize and be aware of their obligations under the Municipal Act, 2001 and the Municipal Conflict of Interest Act, as amended from time to time, and conduct themselves accordingly.

In this Rule:

- 6.8.2 "disqualifying interest" means an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could not participate impartially in the decision-making processes related to the matter.

- 6.8.3 "non-disqualifying interest" means an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully

informed of the facts would believe that the Member of Council could participate impartially in the decision-making processes related to the matter so long as:

- a) The Member of Council fully discloses the interest so as to provide transparency about the relationship; and
- b) The Member of Council states why the interest does not prevent the Member from making an impartial decision on the matter.

6.8.4 Members of Council shall not participate in the decision-making processes associated with their office when prohibited to do so by the Municipal Conflict of Interest Act.

6.8.5 Members of Council shall not participate in the decision-making processes associated with their office when they have a disqualifying interest in a matter.

For greater certainty:

6.8.6 Members of Council shall not participate in the decision-making processes associated with their office when they have a direct, indirect or deemed pecuniary interest in a matter, except in compliance with the Municipal Conflict of Interest Act

6.8.7 Members of Council shall not participate in the decision-making processes associated with their office when they have an interest that though in compliance with the Municipal Conflict of Interest Act, is nevertheless a disqualifying interest by virtue of the nature of the relationship between the Member and other persons or bodies to be affected by the decision.

## **6.9 Treatment of Non-Disqualifying Interests:**

6.9.1 Members of Council may participate in the decision-making processes associated with their office when they have a non-disqualifying interest provided they file at their earliest opportunity a Transparency Disclosure in a form and manner established by the County Clerk acting in consultation with the Integrity Commissioner.

6.9.2 Transparency Disclosures are public documents and shall be available for public viewing on the County website.

6.9.3 The determination of whether an actual disqualifying interest or an actual non-disqualifying interest exists, when challenged, is subject to the determination by the Integrity Commissioner of whether a reasonable person fully informed of the facts would believe that the Member of Council could not participate impartially in the decision-making processes related to the matter.

**Commentary:**

Members of Council have a common understanding that in carrying out their duties as a Member of Council, they will not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family member or an individual which is not available to every other individual.

Members of Council are governed by the *Municipal Conflict of Interest Act* (MCIA). The Integrity Commissioner is empowered to investigate and rule on all conflicts of interest, whether pecuniary or non-pecuniary, however, until March 1, 2019, in the event an application under the MCIA is filed with the Court, the provisions of that statute take precedence over any authority given to the Integrity Commissioner to receive or investigate complaints regarding alleged contraventions under the *Municipal Conflict of Interest Act*.

Members of Council may seek conflict of interest or other advice, in writing, from the Integrity Commissioner. Where members choose to seek external legal advice on conflict of interest or other Code of Conduct issues, these fees will not be reimbursed by the County of Simcoe and cannot be charged to any office account.

Members of Council shall not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to an individual which is not available to every other individual member of the public. For example, Members shall remain at arm's length when County staff or Council is asked to consider a matter involving a Family member or a person or organization where the Member has a real or apparent conflict of interest.

- 6.9.4 Members of Council shall avoid any interest in any contract made by him/her in an official County and shall not contract with the County or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.
- 6.9.5 Members of Council, while holding public office, shall not engage in an occupation or the management of a business that conflicts with their ability to diligently carry out their role as a Member of Council, and shall not in any case profit directly or indirectly from such business that does or has contracted with the County.

**Commentary:**

Members of Council may teach, or run a business that does not conflict or interfere with their duties

- 6.9.6 Despite these provisions, a Member of Council may hold office or a directorship in an agency, board, commission or corporation where the Member has been appointed by County Council or by the Council of the lower-tier municipality of which the Member is also a member, or by the Federal or Provincial Government.
- 6.9.7 Despite these provisions, a Member of Council may hold office or a directorship in a charitable, service or other not-for-profit corporation subject to the Member disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity Commissioner finding that the Member, in carrying out the activity in the specified manner, does not have a conflict between his/her private interest and public duty. In circumstances where the Integrity Commissioner has given the Member a qualified opinion, the Member of Council may remedy the situation in the manner specified by the Integrity Commissioner.

**Commentary:**

Examples of exceptions include hospital boards, charitable boards, police services boards, community foundations, the Association of Municipalities of Ontario, the Federation of Canadian Municipalities, service clubs such as the Rotary Club, Lions Club and other not-for-profit organizations. Members should exercise caution if accepting such positions if the organization could be seeking a benefit or preferential treatment from the County at any time.

**6.10 Improper Use of Influence**

- 6.10.1 No Member shall use the influence of his or her office for any purpose other than for the exercise of his or her official duties.
- 6.10.2 Examples of prohibited conduct are the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children, spouse, staff members, friends, or associates (business or otherwise). This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a Member's supposed influence within Council in return for present actions or inaction.

**6.11 Business Relations**

- 6.11.1 No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the County except in compliance with the terms of the Municipal Conflict of Interest Act as amended from time to time.

6.11.2 A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

## **6.12 Expenses**

6.12.1 Members shall comply with County policies as they relate to reimbursement of expenses while on County business.

## **6.13 Conduct Respecting Current and Prospective Employment**

6.13.1 No member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the County.

## **6.14 Conduct at Meetings of Council**

6.14.1 Members shall conduct themselves with decorum at Council, Board and Committee meetings in accordance with the provisions of this Code of Conduct as well as the County of Simcoe Procedure By-law, or other policies or by-laws governing conduct at proceedings. Members are to demonstrate courtesy and respect for delegations, fellow Members and staff and shall not distract from the business of the Council during presentations and/or when other Members have the floor.

## **6.15 Representing the County**

6.15.1 Members shall make every effort to participate diligently in the activities of the agencies, boards and committees to which they are appointed.

6.15.2 All communication shall be handled in a courteous and respectful manner. An objective and impartial attitude shall be maintained in dealing with all citizens recognizing that they have the right to present their views.

6.15.3 Members of Council shall encourage public respect for the County and its by- laws and policies.

## **6.16 Communication with the Media and Public**

6.16.1 The Warden and Members of Council are the public face of the County and have the prime responsibility for dealing with the media regarding Council matters.

The Chief Administrative Officer, General Managers (or designates), represent the administrative function of the County and have the prime responsibility for dealing with the media regarding administrative matters.

6.16.2 All Members of Council shall accurately and adequately communicate the attitudes and decisions of the Council, even if they disagree with Council's decision, such that respect for the decision-making process of County Council is fostered.

- 6.16.3 Members of Council shall acknowledge that official information related to decisions and resolutions made by Council will normally be communicated to the community and to the media by the Council as a whole or the Warden as Head of Council or by those so designated.
- 6.16.4 Members of Council shall convey information concerning adopted policies, procedures, and decisions of the Council openly and accurately, whereas, confidential information will be communicated only when authorized by Council and in accordance with applicable legislation.

**Commentary:**

A Member may state that he/she did not support a decision, or voted against the decision. A Member should refrain from making disparaging comments about other Members of Council or about Council's processes and decisions.

When communicating with the media, a Member should at all times refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member of Council.

While openness in government is critical, governments also must respect confidentiality when a matter must remain, at least for a period of time, confidential. Breaches of confidentiality by Members erodes public confidence.

While Members are encouraged to actively participate in vigorous debate, Members should understand that they are part of the democratically- elected representative body and should not engage as if they are activists. In this regard, caution should be exercised when blogging, posting, tweeting, re-posting and linking to posts using social media.

Members who post blogs should recognize that the Canadian Association of Journalists has identified the ethical conflict faced by journalists holding elected public office. It is recognized that there is an irreconcilable conflict in holding both roles.

While social media can be an excellent tool for communicating quickly with constituents and sharing ideas and obtaining input, social media can breed incivility that generally doesn't happen in face-to-face interactions. In a world where a transitory comment can become part of the permanent record, Members should exercise restraint in reacting too quickly, or promoting the social media posts of others whose views may be disparaging of Council's decisions or another Member's perspectives.

## **6.17 Council/Staff Roles and Responsibilities**

- 6.17.1 Members of Council are elected legislators and representatives of their constituents. Staff (employees) are responsible for implementing the decisions of Council and ensuring the efficient and effective operation of municipal services. Mutual respect and cooperation are required to achieve the County's corporate goals and implement the Council's strategic priorities.
- 6.17.2 Employees are to recognize that Members of Council have been duly elected to serve the residents of the County and respect the role of Council in directing the action of the County.
- 6.17.3 Members are to be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the County.
- 6.17.4 Council directs staff through its decisions as recorded in the minutes/reports of proceedings. Employees, under the direction of the Chief Administrative Officer, are responsible for implementing those decisions of Council and ensuring the efficient and effective operation of municipal services.
- 6.17.5 Only Council as a whole and no single member has the authority to direct any employee to carry out a particular function, approve budget, policy, and other such matters, unless specifically authorized by Council. Members are, however, encouraged to contact staff when they have questions or are seeking clarification about a report, service or program. Any such requests of staff must align with services and information that would normally be available to any County resident.
- 6.17.6 No Member of Council shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any Member of Council use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties.

## **6.18 Ontario Human Rights Code**

- 6.18.1 Members of Council shall abide by the provisions of the Human Rights Code, as amended, and, in doing so, shall treat every person, including other Members, employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 6.18.2 In accordance with the Human Rights Code, as amended, Members of Council shall not discriminate against anyone on the basis of their race,

ancestry, place of origin, colour, ethnicity origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, or disability.

6.18.3 Pursuant to the Human Rights Code, as amended, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

6.18.4 Without limiting the generality of the foregoing, Members shall not:

- a) Make inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
- b) Display materials or transmit communications that are inappropriate, offensive, insulting or derogatory;
- c) Make threats or engage in any abusive activity or course of conduct towards others;
- d) Vandalize the personal property of others;
- e) Commit assault of any kind, including unwanted physical contact, which includes touching, patting, or pinching; or
- f) Refuse to converse or interact with anyone based on any ground listed in the Human Rights Code, as amended.

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, the complaint procedure under the County's (or Local Board, where applicable) Human Rights Program/Harassment Policy will apply.

## **6.19 Not Undermine, Work Against Council Decisions**

6.19.1 Members of Council shall not actively undermine the implementation of Council's decisions.



**Commentary:**

The role of elected officials, once a council decision is made, is to support the implementation of that decision, not to work against its implementation, publicly or behind the scenes. Council decisions are arrived at following discussion and debate, reflecting the democratic process. Members are expected to engage in debate with their fellow council members through the democratic process of government. However, once Council has made its decision, Members must recognize that decision as the duly-considered decision of the body of Council. As members of that body of Council, individual members – those who did not agree with the decision - are not to engage in activities that seek to challenge or undermine that decision.

Members can express disagreement with Council's decisions, but it is contrary to the ethical behaviour of members of Council to actively seek to undermine, challenge or work against Council's decisions.

6.19.2 Members of Council shall not engage in litigation or other legal challenges against the municipality or Council's decisions.

6.19.3 Despite this provision, Members may pursue a complaint or request for investigation under any of the oversight, transparency and accountability mechanisms provided under Part V.1 and under section 239 of the Municipal Act.

**Commentary:**

When members are allowed to participate in activities to challenge Council's properly considered decisions, such as legal challenges or other forms of litigation, this is contrary to the interests of the municipality as determined by the decision of the democratically elected governing body, Council. It can create challenges to staff as to when and how much information can be provided to Council (legal advice for example) because of the presence of a legal challenge, which may benefit by 'insider knowledge'.

**6.20 Reprisals and Obstruction**

6.20.1 Members shall cooperate with the Integrity Commissioner in the carrying out of his/her responsibilities.

6.20.2 It is a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities.

6.20.3 No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code of Conduct, or against a person who provides information to the Integrity Commissioner in any investigation.

6.20.4 It is a violation of the Code of Conduct to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner in anticipation of or where a complaint has been lodged under the Code of Conduct.

## **6.21 Complaint Protocol**

6.21.1 The Council Code of Conduct Complaint Protocol set out in Schedule A forms part of this Policy.

Note to reader: The commentary cited within this code of conduct may be updated from time to time based on results of investigations or to provide clarification of sections.

## **COUNCIL CODE OF CONDUCT COMPLAINT PROTOCOL**

### **PART A: INFORMAL COMPLAINT PROCEDURE**

Any person or representative of an organization who has identified or witnessed behaviour or an activity by a member of Council that they believe is in contravention of the *Council Code of Conduct* (the "Code") may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the member that the behaviour or activity contravenes the Code;
- (2) encourage the member to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) if applicable, confirm to the member your satisfaction with the response of the member; or, if applicable, advise the member of your dissatisfaction with the response; and
- (5) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

### **PART B: FORMAL COMPLAINT PROCEDURE:**

#### **Initial Complaint**

1. (1) A request for an investigation of a complaint that a member has contravened the Code of Conduct (the "complaint") shall be sent directly to the Integrity Commissioner by E-mail substantially in the form attached to this Protocol as Schedule "A".
- (2) All complaints shall be submitted by an identifiable individual (which includes the authorized signing officer of an organization).
- (3) A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code.

The complaint should include the name of the member, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.

(4) Election Blackout Period:

No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to Council respecting an investigation, within the election period described within s.223.4 and 223.4.1 of the *Municipal Act*, except as described in those sections.

(5) Transitional Provision:

For the purposes of the October 2018 regular municipal election, this provision of the Protocol shall be interpreted as if the provisions of s.223.4 and 223.4.1 as amended were already in force.

### **Classification by Integrity Commissioner**

2. (1) Upon receipt of the request, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation, a complaint with respect to the *Municipal Conflict of Interest Act* or other relevant Council policies.
- (2) If the complaint, on its face, is not a complaint with respect to non-compliance with the Code or another Council policy governing ethical behaviour or the *Municipal Conflict of Interest Act*, or if the complaint is covered by other legislation, the Integrity Commissioner shall 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 if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
  - (b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the County Clerk; and
  - (c) the complainant shall be advised that the matter, or part of the

matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate. The Integrity Commissioner may proceed with that part of the complaint that is within jurisdiction.

- (3) The Integrity Commissioner may assist the complainant in restating, narrowing or clarifying the complaint so that the public interest will be best served were the complaint to be pursued.
- (4) The Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner.
- (5) The Integrity Commissioner shall report annually to Council on complaints not within the jurisdiction of the Integrity Commissioner, but, where possible, shall not disclose information that could identify a person concerned.

### **Investigation**

3. (1) The Integrity Commissioner is responsible for performing the duties set out in this Protocol independently and shall report directly to Council in respect of all such matters. In applying this Protocol, the Integrity Commissioner shall retain the discretion to conduct investigations applying the principles of procedural fairness, and any deviation from the provisions of this Protocol for that purpose shall not invalidate the investigation or result in the Integrity Commissioner losing jurisdiction.
- (2) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, or that the pursuit of the investigation would not, in the opinion of the Integrity Commissioner be in the public interest, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.
- (3) The Integrity Commissioner shall file an annual report to County Council respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of the Integrity Commissioner. Other than in exceptional circumstances, the Integrity Commissioner will not report to Council on any complaint described in subsection (2) except as part of an annual or other periodic report.
- (4) Where the Integrity Commissioner rejects or terminates an investigation pursuant to this section, reasons shall be provided.

4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and may attempt to settle the complaint.
  - (2) The Integrity Commissioner may in exceptional circumstances elect to exercise the powers of a Commission under Parts I and II of the *Public Inquiries Act*, as contemplated by Subsection 223.4(2) of the Act.
  - (3) If the Integrity Commissioner elects to conduct an inquiry under the Public Inquiries Act, he/she shall report to Council before proceeding, setting out the reasons for the investigation, and providing an estimate of the expected cost and time that the investigation will require, and providing an opportunity for Council to respond to the reasonableness of the expenditure of public funds for the purpose of such Commission.
  - (4) When the *Public Inquiries Act* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.
5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the Public Inquiries Act and/or in the context of a particular situation, the principles of procedural fairness:
    - (a) provide the complaint and supporting material to the member whose conduct is in question and provide the member with a reasonable opportunity to respond.
    - (2) Except where the Integrity Commissioner determines that it is not in the public interest to do so, the name of the complainant shall be provided as part of the complaint documents.
    - (3) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act*, and may enter any County work location relevant to the complaint for the purposes of investigation and settlement.
    - (4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any member unless the member has had reasonable notice of the basis for and an opportunity to comment on the proposed findings.
    - (5) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
  6. (1) The Integrity Commissioner shall report to the complainant and the member

generally no later than 90 days after the making of the complaint.

- (2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings, the terms of any settlement, or recommended corrective action.
  - (3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council except as part of an annual or other periodic report.
  - (4) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.
7. 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 judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
8. The County Clerk shall process the report for the next meeting of Council.

### **Council Review**

9. (1) Council shall consider and respond to the report within 90 days after the day the report is laid before it.
- (2) In responding to the report, Council may vary a recommendation that imposes a penalty, subject to Section 223.4, subsection (5) of the *Municipal Act*, but shall not refer the recommendation other than back to the Integrity Commissioner.
- (3) Council can terminate the Integrity Commissioner only by a two-thirds vote of all members.
- (4) Upon receipt of recommendations from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either of two penalties:
- (a) a reprimand; or
  - (b) suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days,

and may also take the following actions:

- (c) removal from membership of a committee;
- (d) removal as chair of a committee;
- (e) repayment or reimbursement of monies received;
- (f) return of property or reimbursement of its value;

### **Confidentiality**

10. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, which are summarized in the following subsections.
  - (2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding.
  - (3) All reports from the Integrity Commissioner to Council will be made available to the public.
  - (4) Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.
  - (5) The Integrity Commissioner in a report to Council on whether a member has violated the Code of Conduct shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.



**Schedule "A"**  
**Complaint**

I \_\_\_\_\_ hereby request the Integrity Commissioner for the County of Simcoe to conduct an inquiry about whether or not the following member(s) of the Council, or a local board of the Council, has contravened the Code of Conduct or the *Municipal Conflict of Interest Act*:

---

I have reasonable and probable grounds to believe that the above member(s) has contravened the Code of Conduct and/or the *Municipal Conflict of Interest Act* by reason of the following (please include date, time and location of conduct, the Rules contravened, and particulars, including names of all persons involved, and of all witnesses, and information as to how they can be reached, (attach additional pages as needed):

---

---

---

---

---

---

I hereby request the Integrity Commissioner to conduct an inquiry with respect to the above conduct. Attached are copies of documents and records relevant to the requested inquiry.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name:  
Address:

Email:  
Phone:

Email completed Complaint to Principles *Integrity* at: [postoffice@principlesintegrity.org](mailto:postoffice@principlesintegrity.org) \_\_\_\_\_

Gift Treatment and Disclosure

A	B	C	D
<b><u>Type of Gift</u></b>	<b><u>Examples</u></b>	<b><u>Gift Disclosure</u></b>	<b><u>Gift No Longer Allowable</u></b>
Token of Appreciation	Plaques, Pens, Mugs, Vase, Event Photos, and similar	No need to record - Deemed Zero Value	Where actual Value of a single gift is over \$750.00, not permissible  May be permissible with IC approval
	Perishable and consumables, includes flowers, food and beverages	No need to record - Deemed Zero Value	Where actual value exceeds \$200, not permissible
	Gift up to \$100	No need to record - Deemed Zero Value	Where actual value exceeds \$500, shall be provided to staff for appropriate disposition, such as but not limited to donation to a charity.  Deemed Zero Value if the gift is to the corporation and placed on public display.
Course of Business	Publications	No need to record - Deemed Zero Value	N/A
	Art	\$100	Where actual value of gifts exceeds \$500, not permissible
	Business Meals	\$100	Where actual value of gifts exceeds \$500, not permissible
	Business Hospitality	\$100	Where actual value of gifts exceeds \$750, <i>may</i> not be permissible  Cannot accept event tickets to a Golf, Gala, Sporting, Entertainment, which exceed \$750, per ticket  May be permissible with IC approval