

THE CORPORATION OF THE TOWNSHIP OF WOLLASTON

BY-LAW No. 27-2020

A BY-LAW TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL OF THE TOWNSHIP OF WOLLASTON.

WHEREAS Section 11 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations and of its local boards and their operations; and

WHEREAS Section 223.2(1) of the Municipal Act 2001, S.O. 2001, c.25, as amended, authorizes municipalities to establish codes of conduct for members of the council of the municipality and of local boards of the municipality; and

WHEREAS Council of the Corporation of the Township of Wollaston deems it expedient to establish a Code of Conduct for Council;

NOW THEREFORE Council of the Corporation of the Township of Wollaston hereby enacts as follows:

1. THAT the Council of the Township of Wollaston does hereby adopt the Code of Conduct, attached hereto as Schedule "A".
2. THAT Schedule "A" forms part of this by-law.
3. THAT this By-law shall come into force and take effect upon receiving the final passing thereof.
4. THAT this By-law repeals By-law 20-18 and any other by-laws pertaining to the Code of Conduct for members of Council.

PASSED this 20th day of April, 2020.

REEVE: BARBARA SHAW

CLERK: BERNICE CROCKER

SCHEDULE “A” TO BY-LAW NO. 27-2020

Code of Conduct for Members of Council and Local Boards of the Township of Wollaston

A. PURPOSE OF THE CODE OF CONDUCT

The Code of Conduct sets minimum standards for the behaviour of Council Members and Members of Local Boards in the performance and discharge of official functions and duties. It has been developed to assist such members to:

1. Understand the standards of conduct that are expected of them and the law that applies in relation to these standards;
2. Fulfill their duty to act honestly and exercise reasonable care and diligence;
3. Act in a way that enhances public confidence in local government; and
4. Identify and resolve situations which might involve a potential misuse of position and authority.

The Code of Conduct applies to all members of Council and Local Boards. It shall be applied to members of Local Boards who are not members of Council, with necessary modifications applied in the discretion of the Integrity Commissioner. Reference to “Members of Council” in Sections B to E inclusive, of this Code, shall be deemed to include members of Council and members of Local Boards.

The Code of Conduct operates as a supplement to the existing statutes governing the conduct of members, Legislation governing the conduct of members of Council includes

- *The Municipal Elections Act;*
- *The Municipal Conflict of Interest Act,*
- *The Municipal Freedom of Information and Protection of Privacy Act.*
- *The Municipal Act*
- *The Provincial Offences Act*
- *The Human Rights Code*
- *The Criminal Code of Canada*

This Code of Conduct operates as a supplement to in-effect Township By-Laws, Policies and Guidelines. A Code of Conduct component will be included as part of the orientation workshop for each new Council.

B. GENERAL INTEGRITY

1. Members of Council shall at all times seek to advance the common good of the Community which they serve.
2. Members of Council shall truly, faithfully and impartially exercise the office to the best of their knowledge and ability.
3. Members of Council shall be committed to performing their functions with integrity, accountability and transparency.
4. Members of Council shall be responsible for complying with all applicable legislation, by-laws, and policies pertaining to their position as an elected official.
5. Members of Council shall at all times serve and be seen to serve the interests of their constituents and the Township of Wollaston in a conscientious and diligent manner and shall approach decision-making with an open mind.

C. CONDUCT

1. Conduct at Meetings

- (a) Members of Council shall conduct and convey Council business in an open and public manner (with the exception of Closed Meeting information that is subject to Section 239 of the Municipal Act);
- (b) Members of Council shall be expected to review and adhere to the Procedural By-law enacted by Council.
- (c) Members of Council shall turn their cell phones to vibrate. The use of phones shall be restricted to emergency calls only. Emergency calls shall be taken in another room.

2. Release of Confidential Information

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with at *Closed Meetings* or that is determined by the Clerk to be confidential 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 Meeting* deliberations to anyone, unless expressly authorized by Council or required by law to do so.

- (a) Members of Council shall not release information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, Chapter M.56*.
- (b) Members of Council shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so.
- (c) Members of Council shall not misuse confidential information (information that they have knowledge of by virtue of their position as Councillors that is not in the public domain, including e-mails and correspondence from other Members of Council or third parties) such that it may cause detriment to the Corporation, Council Members or others, or benefit or detriment to themselves.
- (d) Members of Council shall be responsible for the protection of all *Closed Meeting* materials while in their possession. Materials received electronically shall be deleted at the end of the meeting and paper copy materials shall be returned to the Clerk.

3. Foster Respect for Decision-making Process

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

4. Release of Information to Public and Media

Members of Council acknowledge that official information related to decisions and resolutions made by Council will normally be communicated to the community and the media by the Reeve as Head of Council, by the Council as a whole or by those so designated.

5. Acceptance of Gifts

Council members shall not accept a gift, personal benefit, or hospitality that is connected with their performance of the duties of office that may appear to a reasonable member of the public to be in gratitude for influence, or to induce influence. This does not include gifts or personal benefits received as a matter of the protocol or social obligations that normally accompany the responsibility of office.

6. **Improper Use of Influence**

Members of Council shall not:

- (a) use any influence of office for any purpose other than official duties;
- (b) solicit, demand or accept the services of any corporation, employee, or individual providing services to the municipality at a time in which said person or corporation is being paid by the municipality;
- (c) use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;
- (d) place themselves in a position of obligation to any person or organization which might benefit from special consideration or may seek preferential treatment;
- (e) give preferential treatment to any person or organization in which a Member or Members of Council have a financial interest;
- (f) influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which a Member or Members of Council have a financial interest.

7. **Relationship with Staff**

Mutual respect and cooperation are required to achieve the Council's corporate goals and implement Council's strategies through the work of staff. The role of Council is to lead through setting policy and budget. The role of Council is not to manage or administer.

Members of Council shall:

- (a) acknowledge that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions. Council directs staff through its decision as recorded in the resolutions and minutes of Council;
- (b) refrain from using their position to improperly influence members of staff to carry out specific tasks or functions or to gain an advantage for themselves or others;
- (c) refrain from publicly criticizing individual members of staff in a way that casts doubt on their professional competence and credibility;
- (d) respect that staff provide advice and make policy recommendations in accordance with their professional ethics, expertise, and obligations. Councillors must not willfully injure the reputation, question the capabilities or performance of staff in a manner that is inappropriate.

8. **Respectful Conduct**

- (a) Members of Council shall treat every person, including other members of Council, staff and the public with respect and dignity.
- (b) Members of Council shall understand and respect the right to equality and the right to an environment that is safe and free from harassment and discrimination

9. **Use of Property**

- (a) Members of Council shall avoid waste, abuse and extravagance in the provision or use of public resources.
- (b) Members of Council shall expose fraud and corruption of which the member is aware.
- (c) Members of Council shall not use municipal resources such as property, equipment, services, staff, or supplies for personal gain or for other activities or purposes not connected with the municipality.

D. COMPLIANCE WITH THE CODE OF CONDUCT

1. Members of Council are expected to adhere to the provisions of the Code of Conduct. The Municipal Act authorizes Council, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the Code of Conduct, to impose one of the following sanctions:
 - (a) reprimand;
 - (b) suspension of the remuneration paid to the Member as a Member of Council for a period up to 90 days

E. INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behavior or activity by a member of Council that appears to be in contravention of the Code of Conduct may address the prohibited behavior or activity themselves in the following manner:
 - (a) advise the member that the behavior or activity appears to contravene the Code of Conduct;
 - (b) encourage the member to acknowledge and agree to stop the prohibited behavior or activity;
 - (c) document the incident(s) including date, time, location, other persons present, and any other relevant information;
 - (d) consider the need to pursue the matter in accordance with the formal complaint procedure as outlined.

While an individual may pursue this informal complaint procedure as a means of stopping and remedying a behavior or activity that is prohibited by this Code of Conduct, an individual is not required to undertake the informal complaint procedure prior to pursuing the formal complaint procedure.

F. FORMAL COMPLAINT PROCEDURE—Integrity Commissioner

1. The Township shall appoint an Integrity Commissioner under Section 223.3 of the *Municipal Act, 2001* who is an independent officer and who will report directly to Council and be responsible for carrying out his or her functions in accordance with the *Municipal Act, 2001* and any other functions assigned by Council, in an independent manner.
2. The Integrity Commissioner shall provide the following services:
 - (a) The application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them.
 - (b) The application of any procedures, rules and policies of the municipality and local boards governing the ethical behavior of members of council and of local boards or of either of them.
 - (c) The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council or of local boards.
 - (d) Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member. All requests for such advice and the advice in response thereto, shall be provided in writing.
 - (e) Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the

local board, as the case may be, governing the ethical behaviour of members. All requests for such advice and the advice in response thereto, shall be provided in writing.

- (f) Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*. All requests for such advice and the advice in response thereto, shall be provided in writing.
- (g) The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's code of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

G. COMPLAINT/APPLICATION PROCESS

1. A complaint that a Member has contravened the Code or a corporate policy of the Township may be initiated by any person, any Member of Council, or by Council as follows:
 - (a) a complaint shall be filed in the form of an affidavit as set out in Appendix "A" to this Code and sworn by the complainant. It shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier.
 - (b) a complainant must be an identifiable individual(s). (complaints may not be submitted by any group, organization or corporation);
 - (c) a complaint shall include:
 - (i) an explanation, with specific reference to sections of the Code, as to why the issue raised is alleged to be a contravention of the Code;
 - (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified;
 - (iv) evidence that the complainant has paid to the Clerk a non-refundable complaint fee of \$100.00.
2. An application to the Integrity Commissioner to inquire into an alleged contravention of Sections 5.1 or 5.2 of the *Municipal Conflict of Interest Act* (MCIA) may be made by an elector as defined in Section 1 of the MCIA or by a person demonstrably acting in the public interest as follows:
 - (a) an application shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail fax or courier;
 - (b) an application must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);
 - (c) an application shall include:
 - (i) an explanation, with specific reference to sections of the MCIA, as to why the issue raised is alleged to be a contravention of the Act;
 - (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified; and
 - (iv) a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention not more than six weeks before the date of application in accordance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

- (d) an application may only be made six weeks after the applicant became aware of the alleged contravention and otherwise in compliance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.
3. The Integrity Commissioner shall undertake an initial review of a complaint or an application that has been filed and shall determine whether the matter relates to non-compliance with the Code or other corporate policy applying to Members or compliance with the MCIA. The Integrity Commissioner shall have no power or jurisdiction to investigate or otherwise deal with the complaint or application, if it is not alleging such a contravention, or if the complaint relates to the following matters:
- (i) **Criminal Matter** – if the complaint relates to an allegation of a criminal nature consistent with the Criminal Code, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service.
 - (ii) **Municipal Free of Information and Protection of Privacy** – if the complaint relates to a matter under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be referred to the Clerk.
 - (iii) **Municipal Elections Act** – if the complaint relates to the enforcement of the Municipal Elections Act, the complainant shall be referred to the Compliance Audit Process if the matter relates to campaign finances or to such other avenues of investigation as dictated by that Act.
4. If the Integrity Commissioner determines that he or she does not have jurisdiction as described in Section G.3, the Integrity Commissioner shall advise the complainant/applicant in writing accordingly.
5. The Integrity Commissioner may dispose of a complaint or application on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may do so confidentially or report same to Council. The Integrity Commissioner may also seek further information or clarification from the complainant/applicant and shall endeavor to apprise the complainant/applicant of subsequent steps and the processing of the complaint or application and any ensuing investigation.
6. If the Integrity Commissioner is of the opinion that a complaint or application is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced may terminate any investigation, or may dispose of the complaint/application in a summary manner. The Integrity Commissioner shall advise the complainant/applicant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.
7. If the Integrity Commissioner has decided to commence an investigation (except where otherwise required by the *Public Inquiries Act, 2009*, if applicable), the Integrity Commissioner shall provide a copy of the complaint or application and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within ten (10) days. The Integrity Commissioner may provide the response from the Member to the complainant/applicant with a request for a written reply also within ten (10) days. A complainant/applicant may request that his/her complaint remain anonymous and, if approved by the Integrity Commissioner, the name will not be released.
8. The Integrity Commissioner shall review the written responses and may, if necessary, discuss the matter with anyone that the Integrity Commissioner considers is relevant to the complaint. The Integrity Commissioner may access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act, 2001* and may access any Township workplace relevant to the complaint, including any documents or records under the custody or control of the Township.
9. Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any

sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.

10. Upon conclusion of a complaint investigation, the Integrity Commissioner may:
 - (a) issue a report to Council on the findings of the investigation and, where there is a finding of contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and
 - (b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the complainant at the same time as the report becomes public.
11. Upon conclusion of an application investigation, the Integrity Commissioner may, if he/she considers it appropriate, apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravene Section 5, 5.1 or 5.2 of the Act.
12. The Commissioner shall:
 - (a) advise the applicant if he or she will not be making an application to a judge; and
 - (b) after deciding whether or not to apply to a judge, provide a written report providing reasons for the decision.
13. The Integrity Commissioner's report on a complaint or an application shall be placed on an agenda for consideration at a public meeting of the Committee of the Whole or Council, in accordance with the Procedure By-law, as determined by the Clerk in consultation with the Integrity Commissioner.

H. ELECTION BLACKOUT PERIOD

1. No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to Council respecting an investigation, within the election period between nomination day and six weeks after voting day, except as provided in s. 223.4 and 223.4.1 of the *Municipal Act*.

I. PENALTIES

1. Upon receipt of a final report with respect to a complaint and the recommendations of the Integrity Commissioner, Council may, where the Integrity Commissioner has determined there was a violation of the Code, impose either of the following two (2) penalties:
 - (a) a reprimand; or
 - (b) suspension of remuneration paid to the Member in respect of his or her services as a Member for up to ninety (90) days.
2. Council may also take the following actions:
 - (a) removal from membership of a committee;
 - (b) removal as chair of a committee;
 - (c) request the repayment or reimbursement of monies received;
 - (d) request the return of property or reimbursement of its value;

Appendix A

Formal Complaint and Affidavit

(Code of Conduct for Members of Council and Local Boards)

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.

Affidavit of: _____ (full name)

of the _____ of _____ in (Town/City, etc. of residence)

the County of _____ in the Province of Ontario, make oath and say:

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

(insert reasons i.e. I work for...; I attended the meeting at which...; etc.)

- 2. I have reasonable and probable grounds to believe that a member of Council or local board _____

(specify name of Member(s))

Has contravened Section(s): _____ of the Code of Conduct for Members of Council and Local Boards, the particulars of which are Summarized in 3 below.

- 3. Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space, please attach a separate piece of paper and check the appropriate box below. If you wish to include exhibits to support this complaint, please list the exhibits in the space provided below and attach them to this form.

Multiple horizontal lines for writing the statements of fact and listing exhibits.

