

CITY OF WELLAND

POLICY

Policy Title: Code of Conduct for Members of Council	
Date of Approval: February 5, 2013	Policy Number: HUM-001-0031
Lead Role: City Clerk	Support Role: Integrity Commissioner/City Solicitor
Cross Reference: HUM-001-0033	Next Review Date:
Council File Number: 02-160	Revision Date: February 15, 2022

PURPOSE

A written Code of Conduct helps to ensure that Members of Council share a common basis for acceptable conduct. The Code of Conduct is not intended to replace personal ethics.

AUTHORITY

This *Code of Conduct for Members of Council* was adopted by City Council on February 5, 2013, and amended on January 17, 2017. It is enacted under the authority of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

PREAMBLE

The *Code of Conduct* for Council serves as a guide to Members of Council in the individual conduct of their official duties, helping to ensure that Members share a common basis for acceptable conduct. It also serves to protect the public interest and encourage high ethical standards among Members. The Code represents general standards; it supplements, but does not replace Members' roles, responsibilities, actions, and behaviors required by various statutes, by-laws and policies. The Code does not replace personal values or ethics held by individual Members.

The *Code of Conduct* identifies the public's expectations of Members and establishes guidelines for appropriate behavior. The key principles that underlie the *Code of Conduct* are as follows:

1. Members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
2. Members shall perform their functions with integrity, accountability, and transparency, avoiding the improper use of the influence of their office, and conflicts of interest, both real and apparent;
3. Members shall perform their duties of office in a manner that promotes public confidence and will bear close public scrutiny; and

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4. Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and City Council.

1.0 STATUTORY PROVISIONS REGARDING CONDUCT

- 1.1 The *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of Members, including, but not limited to, the following:

- (a) *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;
- (b) *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended;
- (c) *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as amended;
- (d) *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended; and
- (e) *Criminal Code of Canada*, R.S.C., 1985, c. C-46, as amended.

2.0 DEFINITIONS

- 2.1 In this *Code of Conduct*:

“**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;

“**employee**” means a person employed by the City of Welland, including those on a personal services contract and volunteers, but does not include Members;

“**family member**” means:

- (a) spouse, including but not limited to common-law spouse and same-sex partner;
- (b) child, mother, father, sibling, grandchild, grandparent, aunt, uncle, niece or nephew;
- (c) parent-in-law or sibling-in-law;
- (d) step-parent, step-sibling, or step-child;
- (e) parent or child in a relationship where the role of the parent has been assumed; or
- (f) any person who lives with the Member on a permanent basis;

“**Member**” means a Member of Council, or a Local Board or Committee Member, unless the context otherwise requires;

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“**parent**” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

“**spouse**” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;

“**staff**” means all full-time and part-time persons hired by Welland including the Chief Administrative Officer, commissioners, directors, managers, supervisors, administrative staff, contract and temporary employees, students, secondments, co-op placement staff, volunteers and hired contractors;

The terms “**child**”, “**parent**”, and “**spouse**” have the same meanings as in the *Municipal Conflict of Interest Act*.

3.0 APPLICATION

- 3.1 This Code of Conduct applies to all Members of Council, being the Mayor and each Councillor. It also applies to all members of the public appointed to Local Boards and Committees of Council.

4.0 COMMUNICATIONS AND MEDIA RELATIONS

- 4.1 Members will show respect for Council’s decision-making process, accurately communicate the decisions of Council, even if they disagree with the decision of Council, and acknowledge that information related to decisions and resolutions of Council will normally be communicated to the community by the Council as a whole, or the Mayor as Head of Council, or his or her designate.

5.0 CONFIDENTIAL INFORMATION

- 5.1 Members have access to confidential information by virtue of their position with the City of Welland.
- 5.2 Confidential information includes:
- (a) information in the possession of, or received in confidence by the City, that the City is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, or other legislation;
 - (b) a matter that has been debated or discussed at a meeting of Council closed to the public, unless the matter is subsequently discussed in Open Council, or it is authorized to be released by Council;

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- (c) reports of consultants, draft documents and internal communications, which, if disclosed may prejudice the reputation of the City, its officers and employees, or its effective operation; and
- (d) information concerning litigation, negotiation, or personnel matters.

5.3 No Member shall:

- (a) obtain access, or attempt to gain access, to confidential information in the custody or control of Welland except in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*;
- (b) disclose, release or publish by any means, including social media, any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
- (c) provide to any other person to disclose, release, or publish any confidential information acquired by virtue of his or her office, in any form, except when required by or authorized by Council or otherwise by law to do so;
- (d) use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body; or
- (e) disclose or discuss, through written, electronic or oral communication, to any individual or corporate third party, any information that has been or will be discussed at a closed session meeting of Council or a Committee until such time that Council or the Committee has determined or has been advised by staff that the matter, or any part of the matter, can be made public subject to review by the head or designate under the *Municipal Freedom of Information and Protection of Privacy Act* or if directed to do so by a court.

5.4 The duty to not disclose or release any confidential information acquired by virtue of his or her office except when required by law to do so continues even after a Member ceases to be a Member.

6.0 CONFLICTS OF INTEREST

6.1 Members shall avoid conflicts of interest in accordance with the *Municipal Conflict of Interest Act*. Members are encouraged to seek guidance from the Integrity Commissioner and/or legal advisors when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, including a direct or indirect pecuniary interest.

7.0 ACCEPTANCE OF GIFTS, BENEFITS AND HOSPITALITY

7.1 Members must make decisions based on an impartial and objective assessment of each situation, free from the influence of gifts, hospitality or benefits. Members must avoid both the reality and appearance of impropriety with organizations and people with whom they deal.

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- 7.2 No Member shall accept a gift, hospitality or benefit that is connected directly or indirectly with the performance of his or her duties of office unless permitted by the exceptions listed below. For these purposes, a gift, hospitality or benefit paid to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly with the performance of the Member's duties of office is deemed to be a gift to that Member.
- 7.3 It is recognized that the extension and acceptance of forms of hospitality (including invitations to events, outings, engagements, performances, etc.) is within the normal official duties of a Member, provided that:
- (a) Members do not allow themselves to reach a position whereby they might be, or be deemed by others to have been, influenced in making a decision as a consequence of the offering or acceptance of such hospitality;
 - (b) it serves a legitimate business purpose related to the responsibilities of the Member;
 - (c) the person extending the invitation or a representative of the organization is in attendance; and
 - (d) the value and frequency are reasonable.
- 7.4 Members are not precluded from accepting:
- (a) personal gifts, benefits, rewards, commissions or advantages from any person or organization which are wholly unconnected with the performance of official duties;
 - (b) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
 - (c) services provided without compensation by persons volunteering their time;
 - (d) invitations from charity or not-for-profit organizations to attend their events;
 - (e) food and beverages at banquets, receptions, ceremonies or similar events;
 - (f) a memento received by a Member at a function honouring the Member;
 - (g) a memento received as a result of being a speaker, participant or representative of Welland at an event;
 - (h) gifts or benefits received as an incident of social protocol, customs or social obligations that normally accompany the performance of official duties; and
 - (i) food, lodging, transportation and entertainment provided by other levels of government or by other local governments, boards or commissions or the government of a foreign country.
- 7.5 In the case of categories identified in section 7.4 (e), (f), (g), (h), and (i), if the value of the gift or benefit exceeds \$350 or if the total value received from any one source during the calendar year exceeds \$500, the Member shall within 30 days of receipt of the gift or benefit, or reaching the annual limit, complete a Disclosure Statement (the form of which shall be approved by the Clerk) and submit it to the Clerk.

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7.6 The Disclosure Statement shall include:

- (a) the nature of the gift or benefit;
- (b) its source and date of receipt;
- (c) the circumstances under which it was received; and
- (d) its estimated value.

7.7 Disclosure Statements are a matter of public record, and shall be maintained by the Clerk in accordance with any records retention rules established by Welland.

7.8 Members are responsible for tracking and monitoring any gift or benefit received during the calendar year to ensure compliance with the reporting requirements in section 7.5 of the Code.

7.9 Members shall return any gifts or benefits, or not accept hospitality, which does not comply with these guidelines, along with an explanation of why the gifts, benefits or hospitality cannot be accepted.

8.0 CONDUCT RESPECTING STAFF

8.1 Members are elected legislators and representatives of their constituents. Staff are ultimately accountable to the Chief Administrative Officer, and are responsible for implementing the decisions of Council, and ensuring the efficient and effective operation of municipal services.

8.2 Members are expected at all times to treat staff with respect, professionalism and courtesy. Members who contact staff shall ensure that their request is within the employee's realm of responsibility, approved work plan, or available resources.

8.3 Members and staff will work cooperatively based on shared values of honesty, trust, mutual respect, and leadership for continuous improvement.

8.4 Members shall be respectful of the fact that staff are charged with making recommendations that reflect their professional expertise and corporate perspective without undue influence from any individual Member or group of Members.

9.0 RESPECT IN THE WORKPLACE

9.1 Without limiting the generality of Section 8.0 of the Code, Members shall be governed by Welland's Workplace, Discrimination, Harassment and Workplace Violence Policy, and any similar policy or procedure, made pursuant to the *Occupational Health and Safety Act* and the *Human Rights Code*.

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- 9.2 Members have a duty to treat members of the public, one another and staff appropriately and without engaging in workplace harassment, workplace sexual harassment, abusive conduct, discrimination or workplace violence.
- 9.3 Members have a further responsibility to support a workplace within Welland that is free of workplace harassment, workplace sexual harassment, abusive conduct, discrimination and workplace violence.

10.0 SOCIAL MEDIA

- 10.1 In the use of social media, Members shall adhere to any City policies and guidelines regarding social media use.
- 10.2 When using social media, as a representative as a councillor, Members shall not:
- (a) attempt to cover, disguise or mislead as to their identity or status as an elected representative of Welland;
 - (b) use social media in any way that would violate Welland's Workplace, Discrimination, Harassment and Workplace Violence Policy and any similar policy or procedure made pursuant to the *Occupational Health and Safety Act* and the *Human Rights Code*; or
 - (c) use social media to publish anything that is dishonest, untrue, or misleading in any way.

11.0 USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES

- 11.1 No Member shall use for personal purposes, or permit the use of, City property, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, websites, Council transportation delivery services and Members of Council expense budgets) for activities other than the business of the City.
- 11.2 Nor should any member obtain financial gain from the use or sale of City-developed intellectual property, computer programs, technical innovations, or other items capable of being patented. All such property remains the exclusive property of the City.
- 11.3 No Member shall use information gained in the execution of his or her duties that is not available to the general public for any purpose other than his or her official duties.

12.0 ELECTION CAMPAIGN WORK

- 12.1 Members are expected to comply with the *Municipal Elections Act, 1996* and with the City of Welland Use of Corporate Resources During Election Period Policy.

13.0 IMPROPER USE OF INFLUENCE

13.1 No Member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties. Examples of prohibited conduct include the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, a family member, or associate (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.

13.2 For the purposes of this section, "private advantage" does not include a matter:

- (a) that is of general application;
- (b) that affects a Member or her/his family member or associate as one of a broad class of persons; or
- (c) that concerns the remuneration or benefits of a Member as authorized by Council.

14.0 DISCREDITABLE CONDUCT

14.1 As a representative of the City, every Member has the duty and responsibility to treat members of the public, one another and staff, appropriately and without abuse, bullying, or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.

14.2 A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any member of staff, or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.

14.3 During Council and Standing Committee meetings, Members shall conduct themselves with decorum and in accordance with the City's Procedural By-law.

15.0 BUSINESS RELATIONS

15.1 No Member shall act as a paid agent before Council, its committees, or any agency, board or commission of the City, except in compliance with the terms of the *Municipal Conflict of Interest Act*.

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

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16.0 CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT

16.1 No Member shall allow the prospect of his or her future employment by a person or entity to influence the performance of his or her duties to the City.

17.0 REPRISALS AND OBSTRUCTION

17.1 Members should respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone providing information to the Integrity Commissioner is prohibited.

17.2 No Member shall obstruct the Integrity Commissioner in the carrying out of his or her responsibilities by, for example, the destruction of documents or the erasing of electronic communications.

18.0 FAILURE TO ADHERE TO COUNCIL BY-LAWS, POLICIES AND PROCEDURES

18.1 Members shall encourage public respect for, and are required to obey the spirit and intent of, all City by-laws, policies and procedures.

19.0 COMPLIANCE, ENFORCEMENT AND PENALTIES

19.1 All Members shall be aware of and comply with this Code.

19.2 Members are accountable to the public through the election process. Between elections, they may become disqualified and lose their seat if convicted of an offence under the *Criminal Code of Canada*, or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*, or if convicted of a corrupt practice under the *Municipal Elections Act*.

19.3 In addition, subsection 223.4(5) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, authorizes that Council may impose one or both of the following penalties on a member of Council following a report by the Integrity Commissioner that, in his or her opinion, the Member has contravened the Code of Conduct:

- (a) a reprimand;
- (b) suspension of the remuneration paid to the Member in respect of his or her services as a member of council for a period up to 90 days.

19.4 The Integrity Commissioner may also recommend that Council or a local board take the following actions:

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- (a) removal from membership of a Committee or a local board;
- (b) removal as Chair of a Committee or local board;
- (c) repayment or reimbursement of moneys received;
- (d) return of property or reimbursement of its value; or
- (e) a request for an apology to Council, the complainant, or both.

20.0 ACTING ON ADVICE OF INTEGRITY COMMISSIONER

20.1 Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent considerations of the conduct of the Member in the same manner as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.

21.0 COMPLAINT TIMING AND PROTOCOL

- 21.1 Any individual, including members of the public, city employees, and Members who has reasonable grounds to believe that a Member has breached a provision of the Code, may proceed with a complaint.
- 21.2 Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring.
- 21.3 The *Integrity Commissioner Procedures* setting out the process to follow in any complaint that a Member has contravened the Code or the *Municipal Conflict of Interest Act* are available at the City's offices and on its website.