

CITY OF WELLAND

POLICY

Policy Title: Code of Conduct for Members of Council	
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Lead Role: City Clerk	Support Role: Integrity Commissioner/City Solicitor
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Purpose:

A written Code of Conduct helps to ensure that the 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 the Members share a common basis for acceptable conduct. It also serves to protect the public interest and encourage high ethical standards among the 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 the 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

Code of Conduct for Members of Council HUM-001-0031

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 Town Council.

I. STATUTORY PROVISIONS REGARDING CONDUCT

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:

1. *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
2. *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended;
3. *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as amended;
4. *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended; and
5. The *Criminal Code of Canada*, R.S.C., 1985, c. C-46, as amended.

II. DEFINITIONS

In the *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.

“**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;

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

Code of Conduct for Members of Council HUM-001-0031

III. APPLICATION

This *Code of Conduct* applies to all members of Council, including the Mayor.

IV. COMMUNICATIONS AND MEDIA RELATIONS

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.

V. CONFIDENTIAL INFORMATION

Members have access to confidential information by virtue of their position with the City of Welland.

Confidential information includes: 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; 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; 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 information concerning litigation, negotiation, or personnel matters.

No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law, or authorized by Council to do so;

No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.

No Member shall disclose the content of a matter that has been discussed at or the substance of deliberations of an in-camera meeting, except for content that has been authorized by Council to be released to the public;

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

VI. GIFTS AND BENEFITS

In order to preserve the image and integrity of the City of Welland, business gifts to Members are discouraged. The City recognizes that moderate hospitality is an accepted courtesy of a business relationship. However, Members should not accept any gift, benefit, service,

Code of Conduct for Members of Council HUM-001-0031

entertainment or hospitality which could be seen to compromise their decision on a matter or create any obligation or special consideration by an individual, group or organization.

No Member shall solicit or accept a fee, advance, gift or benefit that is connected directly or indirectly with the performance of their duties in office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of their duties in office is deemed to be a gift or benefit to that Member.

This section does not preclude Members from accepting:

- a) Compensation authorized by law;
- b) Such gifts or benefits that normally accompany the duties of office and are received as an incident of protocol or social obligation;
- c) A political contribution otherwise reported by law;
- d) Admission to a widely attended event, such as a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event, offered by the entity responsible for organizing and presenting the event and unsolicited by the Member of Council, if attending or participating in their official capacity, including:
 - (i) participation in an event as a speaker or panel participant by presenting information related to City matters;
 - (ii) performance of a ceremonial function appropriate to the Member of Council's office;
 - (iii) attendance at an event that is appropriate to the official capacity of the Member of Council;
- e) Admission to a charity or community organization event offered by the charity or community organization for whose benefit the event is being held and unsolicited by the Member of Council;
- f) 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 duties in office and in the interest of the City;
- g) A suitable memento of a function honouring the Member of Council;
- h) Food, lodging, transportation and entertainment provided by federal, provincial, regional or municipal governments or by political subdivisions of them or by a foreign government within a foreign country;
- i) Food and beverages consumed at banquets, receptions or similar events if:
 - (i) attendance serves a legitimate business purposes;
 - (ii) the person extending the invitation of a representative of the organization is in attendance; and
 - (iii) the value is reasonable and the invitations infrequent.
- j) Communication to the office of a Member of Council including subscriptions to newspapers and periodicals.

Code of Conduct for Members of Council HUM-001-0031

Except for paragraph (c), the exceptions listed in subsection 7 do not apply to lobbyists. Lobbyists are not permitted to give a gift or benefit under this section unless it is a political contribution permitted by law.

In the case of paragraphs (b), (h), (i), (j) and (k), if the value of the gift or benefits exceeds \$200 or if the total value received from any one source during the course of a calendar year exceeds \$200, the Member of Council shall within 30 days of receipt of the gift or benefit or of reaching the annual limit, file a disclosure statement with the City Clerk. The disclosure statement must indicate:

- (a) The nature of the gift or benefit;
- (b) Its source and date of receipt;
- (c) The circumstances under which it was given or received;
- (d) Its estimated value;
- (e) What recipient intends to do with any gift; and
- (f) Whether gift will at any point be left with the City.

Any disclosure statement will be a matter of public record.

Members will be required to exercise their personal judgment of the provisions within this section;

VII. CONDUCT RESPECTING STAFF

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;

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.

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

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.

VIII. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES

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.

Code of Conduct for Members of Council HUM-001-0031

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.

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.

IX. ELECTION CAMPAIGN WORK

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.

X. IMPROPER USE OF INFLUENCE

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.

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.

XI. DISCREDITABLE CONDUCT

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.

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.

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

Code of Conduct for Members of Council HUM-001-0031

XII. BUSINESS RELATIONS

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*.

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

XIII. CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT

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.

XIV. REPRISALS AND OBSTRUCTION

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.

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.

XV. FAILURE TO ADHERE TO COUNCIL BY-LAWS, POLICIES AND PROCEDURES

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

XVI. COMPLIANCE, ENFORCEMENT AND PENALTIES

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

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*.

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:

1. A reprimand.

Code of Conduct for Members of Council HUM-001-0031

2. 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.

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

1. Removal from membership of a Committee or a local board;
2. Removal as Chair of a Committee or local board;
3. Repayment or reimbursement of moneys received;
4. Return of property or reimbursement of its value; or
5. A request for an apology to Council, the complainant, or both.

XVII. ACTING ON ADVICE OF INTEGRITY COMMISSIONER

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.

XVIII. COMPLAINT TIMING AND PROTOCOL

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.

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.

The *Code of Conduct Complaint Protocol for Members of Council* is available at the City's offices and on its website.