

REGIONAL MUNICIPALITY OF DURHAM

COUNCIL CODE OF CONDUCT

REGIONAL MUNICIPALITY OF DURHAM
CODE OF CONDUCT FOR MEMBERS OF COUNCIL

1. PRINCIPLES

- 1.1 Improving the equality of Regional administration and governance can best be achieved by encouraging high standards of conduct on the part of all municipal officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the Region's and the Council members' reputation and integrity.
- 1.2 Key statements of principles that underline this Code of Conduct are as follows, members shall:
- A) Serve and be seen to serve their constituents in a conscientious and diligent manner;
 - B) be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, under the *Municipal Conflict of Interest Act*;
 - C) perform their duties in office in a manner that promotes public confidence and will bear close public scrutiny;
 - D) recognize and act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable to members of the public as possible; and
 - E) seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the by-laws and policies adopted by the Council.

2. DEFINITIONS

- 2.1 In this Code of Conduct:
- A) "child" means a child born within or outside marriage and includes an adopted child and a person whom a member has demonstrated a settled intention to treat as a child of his or her family;
 - B) "Code of Conduct" means the rules which govern the conduct of members established pursuant to the authority of section 223.2 of the *Municipal Act, 2001, S.O. 2001, c. 25*;
 - C) "complaint" means a written request to investigate the conduct of any member for a possible violation of the Code of Conduct filed in accordance with the Complaint Procedure;

- D) "confidential information" mean any information in the possession of, or received in confidence by, the Region that the Region is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56*, or any other law, which includes, but is not limited to:
- (1) information of a corporate, commercial, scientific or technical nature received in confidence from third parties,
 - (2) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*,
 - (3) information that is subject to solicitor-client privilege,
 - (4) information that concerns any confidential matters pertaining to matters related to an identifiable individual, personal, labour relations, litigation, property acquisition, the security of the property of the municipality or a local board,
 - (5) any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order, and
 - (6) any information considered by or made available to Council during a closed meeting pursuant to subsection 239(2) of the *Municipal Act, 2001*.
- E) "Council" means the council of The Regional Municipality of Durham;
- F) "gift and benefits" means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment;
- G) "information" means any record, document, data, material, correspondence or evidence however recorded, whether oral or in printed form, on film, by electronic means or otherwise;
- H) "Integrity Commissioner" means the Integrity Commissioner appointed by the Council pursuant to section 223.3 of the *Municipal Act, 2001*;
- I) "member" means a member of the Council, unless the context otherwise requires;
- J) "parent" means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;
- K) "person" includes a corporation, partnership, association and any other entity, as the context allows, and expressly includes a member as well as Council;
- L) "Region" means The Regional Municipality of Durham;

- M) "spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage;
- N) "staff" means the municipal administrative staff of the Region and of its municipal corporations and local boards.

3. APPLICATION OF THIS CODE

- 3.1 This Code of Conduct applies to every member.

4. COMPLIANCE WITH DECLARATION OF OFFICE

- 4.1 Every member shall act in accordance with his or her declaration of office sworn pursuant to section 262 of the *Municipal Act, 2001*.

5. ADHERENCE TO COUNCIL POLICIES AND PROCEDURES

- 5.1 Every member shall observe and comply strictly with every provision of this Code of Conduct, as well as all other policies and procedures adopted or established by Council affecting the member, whether or not acting in his or her capacity as a member of Council.

6. CONDUCT AT MEETINGS

- 6.1 Every member shall conduct himself or herself properly and in a civil manner at Council, committee and other meetings, and in accordance with the provisions of the Region's Council Rules of Procedure By-law, this Code of Conduct, and any other applicable law.

7. CONDUCT RESPECTING OTHERS

- 7.1 Every member has the duty and responsibility to treat all members of the public, other members and all staff appropriately and without abuse, bullying or intimidation, and to ensure that the work environment is free from discrimination and harassment.
- 7.2 Every member shall:
 - A) not use indecent, abusive or insulting-words or expressions toward any other member, any member of staff or any member of the public; and
 - B) 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 or gender identification, age, colour, marital status, or disability.

8. CONDUCT RESPECTING STAFF

- 8.1 Every member acknowledges that staff operate under the direction of the senior municipal administration, and in accordance with the decisions of Council, and are required to serve the Region as a whole and not the needs or desires of any individual member.
- 8.2 Every member shall:
- A) be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any member or faction of the Council; and
 - B) show respect for staff, and for their professional capacities and responsibilities.
- 8.3 Every member shall not:
- A) maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff;
 - B) compel any member of staff to engage in partisan political activities, or subject any member of staff to threat or discrimination for refusing to engage in any such activity; and
 - C) use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that staff person's duties, including the duty to disclose improper activity.

9. GIFTS, BENEFITS, SERVICES AND HOSPITALITY

- 9.1 In order to preserve the image and integrity of the Region, business gifts to Members are discouraged. The Region recognizes that moderate hospitality is an accepted courtesy of a business relationship. However, Members should not accept any gift, benefit, service, 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;
- 9.2 There will be no solicitation of gifts, benefits, services or hospitality in recognition of the fulfillment of the Member's official duties;
- 9.3 If the refusal of any gift or act of hospitality will strain the Region's business relationship, the Regional Chair or Chief Administrative Officer may accept it on behalf of the municipality with the appropriate acknowledgment;

- 9.4 Generally, the Regional Chair or Chief Administrative Officer will be the official recipient of those gifts afforded to the Region for ceremonial, symbolic, protocol or official business purposes. Members will turn over such a gift to the Regional Chair or Chief Administrative Officer. Wherever possible, ceremonial, symbolic, protocol or official business gifts should be presented at a meeting of Council;
- 9.5 This section does not preclude Members from accepting:
- A) Token gifts, souvenirs, mementos, or hospitality received in recognition for service on a committee, for speaking at an event, or for representing the Region at an event;
 - B) Political contributions that are otherwise offered, accepted, and reported in accordance with the *Municipal Elections Act* or other applicable law;
 - C) Food and beverages at meetings, banquets, receptions, ceremonies, or similar events;
 - D) Food, lodging, transportation, entertainment provided by other levels of government, by other local governments, or by local government boards or commissions;
 - E) A stipend from a board or commission that the Councillor serves on as a result of an appointment by Council;
 - F) Reimbursement of reasonable expenses incurred in the performance of their office, and the performance of activities connected with municipal associations;
 - G) Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office;
 - H) An invitation from and at the expense of a private third party to attend a conference, seminar, charity fundraiser, reception, ceremony, cultural event or other similar event where the proceeds raised are to support a not-for-profit organization; and associated gifts provided in recognition of attendance, support or participation.
 - I) Services provided without compensation by persons volunteering their time for an election campaign.
- 9.6 This section further does not preclude Members from soliciting funds or donations in support of charitable or philanthropic causes, organizations or charities within the community.
- 9.7 Members will be required to exercise their personal judgment of the provisions within this section.

10. CONFIDENTIAL INFORMATION

10.1 No member shall:

- A) disclose, release or publish by any means to any person or to the public 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;
- B) 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;
- C) disclose a matter, the substance of the matter, and information pertaining to a matter, that has been debated or discussed at a meeting closed to the public, and shall be maintained as confidential, unless authorized by the Council or legislation to be released, generally or subject to conditions, and such are complied with;
- D) disclose the content of any matter referred to in the preceding paragraph or the subject-matter of deliberations, at a meeting closed to the public meeting, only after the Council or committee lawfully and knowingly discusses the information at a meeting that is open to the public or releases the information to the public;
- E) without lawful authority, disclose, or make personal use of, any of the following types of confidential information:
 - (1) information concerning litigation, negotiation or personnel matters,
 - (2) information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence),
 - (3) price schedules in any contract, tender or proposal document while such remains a confidential document,
 - (4) information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*, and
 - (5) any other information or statistical data required by law not to be released; and-
- F) obtain access, or attempt to gain access, to confidential information in the custody of the municipality except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by Council or otherwise by law.

11. USE OF REGIONAL PROPERTY, SERVICES AND OTHER RESOURCES

11.1 Subject to 11.2 below, no member shall:

- A) use, or permit the use of, Regional land, facilities, equipment, supplies, services, staff or other resource, including any municipally-owned information, website, transportation delivery service or funds allocated for the member expenses of his or her office, for any purpose or activity other than the lawful business of the Region; or
- B) seek or acquire any personal financial gain from the use or sale of confidential information, or of any Regionally-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copy righted, of which property remains exclusively that of the Region.

11.2 Incidental and occasional personal, non-commercial use of email/internet and a personal communication device (i.e. blackberry) is permitted.

12. CONDUCT OF ELECTION CAMPAIGN

12.1 Every member shall comply with all applicable requirements of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched.

12.2 No member shall:

- A) use confidential information, facilities, equipment, supplies, services or other resources of the Region, including any member newsletter or website linked through the Region's website, for any election campaign or campaign-related activity;
- B) undertake campaign-related activities on municipal property during regular staff working hours unless authorized by the Region; or
- C) use the services of any person for election-related purposes during hours in which that person receives any compensation from the Region.

13. NO IMPROPER USE OF INFLUENCE

13.1 No member shall:

- A) use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes;
- B) use his or her office or position to influence or attempt to influence the decision of any other person, for the member's private advantage or that of the member's parent, child, spouse, staff, friend, or associates, business or otherwise;

- C) attempt to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties; or
 - D) hold out the prospect or promise of future advantage through the member's supposed influence within Council, in return for any action or inaction..
- 13.2 For the purposes of this provision, "private advantage" does not include a matter that:
- A) is of general application;
 - B) affects a member, his or her parents/children or spouse, staff, friends or associates, business or otherwise, as one of a broad class of persons; or
 - C) concerns the remuneration or benefits of a member.
- 13.3 Section 13.1 does not prevent a member from requesting that Council grant a lawful exemption from a Regional policy not including this Code of Conduct.

14. NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE

- 14.1 Every member must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it, and shall cooperate in every way possible in securing compliance with its application and enforcement.
- 14.2 No member shall obstruct the Integrity Commissioner, his or her designate, or any other Regional official involved in applying or furthering the objectives or requirements of the Code of Conduct, in the carrying out of such responsibilities, or pursuing any such objective. No member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person under the Code of Conduct.

15. STATUTES REGULATING THE CONDUCT OF COUNCILLORS

- 15.1 Members acknowledge that in addition to this Code of Conduct, the following legislation also governs the conduct of members:
- A) *Municipal Act, 2001*;
 - B) *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50*;
 - C) *Municipal Elections Act*;
 - D) *Municipal Freedom of Information and Protection of Privacy Act*;
 - E) *Occupational Health and Safety Act, R.S.O. 1990, c. 0.1*;

F) *Human Rights Code, R.S.O. 1990, c. H.19*; and

G) *Criminal Code, R.S.C. 1985, c. C-46*.

15.2 A member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* or the *Municipal Elections Act, 1996*, or being found to have failed to comply with the *Municipal Conflict of Interest Act*, whether or not the conduct in question involves a contravention of this Code of Conduct.

15.3 In the case of any inconsistency between this Code of Conduct and a federal or provincial statute or regulation, the statute or regulation shall prevail.

15.4 All references to any statute, regulation, by-law or legislation shall be deemed to be a reference to the statute, regulation, by-law or legislation as amended, consolidated, replaced or superseded.

16. INTEGRITY COMMISSIONER

16.1 The Integrity Commissioner shall be responsible for performing in an independent manner the following functions as assigned by the Region with respect to:

A) the application of the Code of Conduct; and

B) the application of any procedures, rules and policies of the Region governing the ethical behaviour of members;

and, without limiting the generality of the foregoing, shall be entitled to undertake investigations or not undertake investigations in accordance with provisions of Part V.1 of the *Municipal Act, 2001*.

16.2 In addition, to the responsibilities set out in Section 16.1, the Integrity Commissioner shall also provide:

A) information to Council as to members' obligations under the Code of Conduct and the Complaint Procedure;

B) advice to individual members regarding specific situations as they relate to the application of the Code of Conduct;

C) advice to Council on other policies and procedures that relate to the ethical behavior of members;

D) information to the public regarding the Code of Conduct and the obligations of members under the Code of Conduct; and

E) an annual report to Council on the activities of the Integrity Commissioner.

- 16.3 Without limiting the generality of Section 16.1, the Integrity Commissioner may determine, on a case-by-case basis, whether to undertake an investigation or not to undertake an investigation. The Integrity Commissioner shall be entitled to summarily dismiss a complaint filed in accordance with the Complaint Procedure on the basis that it constitutes in his or her opinion, an abuse of process or is frivolous or vexatious.
- 16.4 Without limiting the generality of Article 16, all determinations of the Integrity Commissioner under the Code of Conduct shall be made in his or her own absolute discretion and shall be final and binding.

17. COMPLAINTS

- A) All complaints pursuant to the Code of Conduct shall be filed in accordance with the Complaints Procedure in Appendix "A" attached hereto.

18. PENALTIES

- 18.1 Council may, where it has received a report from its Integrity Commissioner that there has been a violation of the Code of Conduct, impose one of the following penalties on a member who has been found to be in contravention of the Code of Conduct:
- A) a reprimand; or
- B) suspension of the remuneration paid to the member in respect of his or her services as a member for a period of up to ninety (90) days.

19. ANNUAL REPORTS

- 19.1 The Integrity Commissioner shall submit an annual report to Council which will include information on the nature and volume of activity for the past year and provide examples, while maintaining the anonymity of the persons involved, in respect of advice provided and the nature of complaints received and responded to.
- 19.2 The annual report of the Integrity Commissioner shall be provided to Council for information purposes. The report is a public document.