

Policy No.: COUNCIL.01

Section: Your Government and People

Policy Title: Code of Conduct for Members of Council, Local Boards, and Committee Members

Adopted Date: June 5, 2023

By-law No: 2023-085

Revision Date:

1. Purpose

1.0 Application and Purpose

1.1 The purpose of this Code of Conduct is to establish a general standard to ensure that all Members share a common basis for acceptable conduct, and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedure By-law and other sources of applicable law, including but not limited to:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*

1.2 This Code of Conduct applies to all Members of the Council of the Municipality of Kincardine and, unless specifically indicated otherwise and with all necessary modifications, to all members of the Municipality's local boards.

1.3 While this Code of Conduct applies to members of the Municipality's local boards it is recognized that such members do not hold elected office nor do they represent the Municipality in general and at all times.

2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Municipality by its Members as duly elected and/or appointed public representatives of local boards to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.

2.2 The principles set out in Sections 2.1 and 2.2 are intended to facilitate an understanding, application and interpretation of the Code of Conduct – the principles are *not* operative provisions of the Code of Conduct and are *not* intended to be enforced independently as such.

All Members shall:

- serve and be seen to serve the public in a conscientious and diligent manner;
- observe and act with the highest standard of ethical conduct and integrity;
- avoid the improper use of the influence of their office and act without self-interest;
- perform their functions with honesty, integrity, accountability and transparency;
- perform their duties of office and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
- be cognizant that they are at all times representatives of the Municipality and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Municipality; and
- uphold the spirit and the letter of the laws of Ontario and Canada and the laws and policies adopted by Council.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) “CAO” means the Chief Administrative Officer of the Municipality or designate;
- (b) “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;
- (c) “Clerk” means the Clerk of the Municipality or designate;
- (d) “confidential information” means information or records that are in the possession, in the custody or under the control of the Municipality that the Municipality is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedure By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;
- (e) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular matter;

- (f) “Council” means the council for the Municipality and includes, as the context may require and with all necessary modifications, any of the Municipality’s local boards;
- (g) “family” means a Member’s spouse (including common-law partner or any person with whom the Member is living as a spouse outside of marriage), parent (including step-parent and legal guardian), child (including step-child), grandchild, sibling, aunt, uncle, niece, nephew, first cousin, and in-law (including mother- and father-in-law, sister- and brother-in-law, daughter- and son-in-law);
- (h) “frivolous” means of little or no weight, worth, importance or any need of serious notice;
- (i) “gift” means any kind of benefit, contribution or hospitality that has any financial or monetary value and includes the forms of benefits, contributions and hospitality that are set out in Section 7.0;
- (j) “Integrity Commissioner” means the person appointed by Council pursuant to section 223.3 of the *Municipal Act, 2001* to independently carry out the functions set out therein and such other functions as may be assigned by Council from time to time;
- (k) “local board” means a local board as that term is defined in subsection 1(1) and section 223.1 of the *Municipal Act, 2001 including committees*;
- (l) “media” includes any radio, television, newspaper, magazine, website, blog, social media, Twitter feed, YouTube or any other vehicles for the public dissemination of information, whether digital, electronic or print;
- (m) “meeting” means a regular, special or other meeting of Council or a committee of Council where:
 - (i) a quorum of Members is present, and
 - (ii) Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of Council;
- (n) “Member” means a Member of the Council for the Municipality or a member of a local board, including a member of a joint board if that member is appointed by the Council to the joint board;
- (o) “Municipality” means The Corporation of the Municipality of Kincardine and includes, as the context may require and with all necessary modifications, any of the Municipality’s local boards;
- (p) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;

- (q) “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;
- (r) “pecuniary” means relating to or consisting of money or having financial, economic or monetary value;
- (s) “social media” means any third-party hosted technologies that allow the creation and exchange of user-generated content to share opinions, information and documents, and includes blogs, discussion boards and forums, microblogs, photo-sharing sites, social networks and video sharing services;
- (t) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (u) “staff” means the CAO and all officers, directors, managers, supervisors and all administrative staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents, consultants and volunteers acting in furtherance of the Municipality’s business and interest (not including a Member);
- (v) “vexatious” means troublesome or annoying in the case of being instituted without sufficient grounds and serving only to cause irritation and aggravation to the person being complained of.

4.0 General Obligations

4.1 A Member shall make every effort to:

- (a) respect the individual rights, values, beliefs and personality traits of any other person, recognizing that all persons are entitled to be treated equally with dignity and respect for their personal status regarding gender, sexual orientation, gender identity, gender expression, race, creed, religion, ability and spirituality;
- (b) not make statements that are or ought to be known to be false or with the intent to mislead or misinform Council or the public;
- (c) not make disparaging comments about any other person (including a Member) or unfounded accusations about the motives of any person (including a Member); and
- (d) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Municipality’s Procedure By-law or other applicable procedural rules and policies.

5.0 The Role of Staff – Respectful Conduct Towards Staff

- 5.1 An individual Member neither directs nor oversees the functions of the staff of the Municipality. Council as a whole approves the budget, policies and governance of the Municipality through its by-laws and resolutions.

- 5.2 Staff serve Council and work for the Municipality as a body corporate under the direction of the CAO. Members shall acknowledge, respect and have regard for the administration, managerial and organizational structure of the Municipality when requesting information, advice or services from staff.
- 5.3 A Member shall comply with the Municipality's Council and Staff Relations Policy.
- 5.4 A Member shall not publicly criticize Staff and any issue with respect to any Staff member shall be referred to the CAO who will direct the matter to the particular Staff member's appropriate superior (if not the CAO).
- 5.5 A Member shall respect the role of Staff in the administration of the business and governmental affairs of the Municipality, and acknowledge and appreciate that staff:
- (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that a Member must not falsely or maliciously injure the reputation of Staff members whether professional or ethical or otherwise;
 - (b) work within the administration of justice and that a Member must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, a Member shall not attempt to intimidate, threaten, or influence any Staff member from carrying out that person's duties, including any duty to disclose improper activity; and
 - (c) carry out their municipal duties based on political neutrality and without undue influence from any individual Member and, therefore, a Member must not invite or pressure any member of Staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

6.0 Municipal Property

- 6.1 Council is the custodian of the assets of the Municipality. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.
- 6.2 By virtue of their office or appointment, a Member must not use or permit the use of the Municipality's property, including but not limited to land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Municipality, unless they are entitled to such use equally with any other resident and have paid fair market value for such use. No Member shall seek financial gain for themselves, family or friends from the use or sale of the Municipality's intellectual property, computer programs, technological innovations, or other patent, trademarks, official marks or copyright held by the Municipality.
- 6.3 A Member shall not use any Municipality property for activities not associated with their duties of office unless prior approval has been granted by Council.

7.0 Gifts, Benefits and Hospitality

- 7.1 Any gift to a Member risks the appearance of improper influence. Gifts may improperly induce influence or create an incentive for a Member to make decisions on the basis of relationships rather than in the best interests of the Municipality. A Member shall not accept any gift connected directly or indirectly with the performance of his or her duties except as provided in Section 7.3.
- 7.2 A gift provided to a Member's family that is connected directly or indirectly to the performance of the Member's duties shall be deemed to be a gift to that Member. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.
- 7.3 For greater clarity, despite Sections 7.1 and 7.2, a Member is entitled to accept any compensation, remuneration or benefit authorized by law but shall not accept any gift other than in the following circumstances:
- (a) a gift that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation as set out in 7.3(g);
 - (b) a political contribution otherwise reported by law, in the case of a Member running for office;
 - (c) services provided without compensation by persons volunteering their time for a charitable or non-profit event or for the Member's re-election campaign;
 - (d) nominal tokens, mementos or souvenirs received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;
 - (e) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or by the federal government 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 as a representative of the Municipality;
 - (f) entrance fees or food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate municipal business purpose related to the business of the Municipality,
 - (ii) the person extending the invitation or a representative of the organization is in attendance,
 - (iii) the invitations are infrequent, and
 - (iv) the value is not greater than \$500.00 from a single source over a calendar year;
 - (g) a gift (other than gifts as set out in Section 7.3(f)) not having a value greater than \$250.00 from a single source over a calendar year; and

(h) a gift received as a door prize, raffle or similar draw at an event, conference or seminar attended by the Member.

7.4 A Member who has received and accepted a gift pursuant to Section 7.3(a), (f), (g) and (h) shall file a disclosure of the gift indicating the person, body or entity from which it was received together with the estimated value of the gift in accordance with the Disclosure Statement set out in Appendix "A". A Member shall submit the Disclosure Statement to the Clerk on an annual basis no later than March 31 for the preceding calendar year and it shall be a matter of public record.

7.5 A Member shall not seek or obtain by reason of his or her office any personal privilege or advantage with respect to municipal services not otherwise available to the general public and not connected directly or indirectly to the performance of the Member's duties.

8.0 Confidential Information

8.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the Municipality that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws, and information received during closed meetings of Council or committees of local boards. Examples of types of information that a Member must keep confidential, unless expressly authorized by Council, or as required by law, or the information is in the public realm, include, but are not limited to:

- (a) matters related to ongoing litigation or negotiation, or that are the subject of solicitor-client privilege;
- (b) information provided in confidence, for example, the identity of a complainant where a complaint is made in confidence, personal information of an individual derived from municipal records or other information that a Member receives in confidence by virtue of their office as an elected representative;
- (c) price schedules in contract tender or request for proposal submissions if so specified;
- (d) personal matters about an identifiable individual;
- (e) "personal information" as defined in the *Municipal Freedom of Information and Protection of Privacy Act*;
- (f) any census or assessment data that is deemed confidential; and
- (g) the purchase or sale of personal or real property by the Municipality.

8.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, from a closed meeting. A Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.

- 8.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Municipality that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Municipality and must follow the same processes as any private person to obtain such information.
- 8.4 A Member shall not misuse confidential information in any way or manner such that it may cause detriment to the Municipality, Council or any other person, or for financial or other gain for themselves or others.
- 8.5 A Member shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, municipal policies, procedures and rules, ethical standards and, where appropriate, professional standards.
- 8.6 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.

9.0 Discrimination and Harassment

- 9.1 A Member shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.
- 9.2 A Member shall not use indecent, abusive, demeaning or insulting words, phrases or expressions toward any member of the public, another Member or staff.
- 9.3 A Member shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, gender identity, gender expression, sexual orientation, marital status, family status, disability, age or record of offences for which a pardon has not been granted.
- 9.4 A Member shall comply with the Municipality's Workplace (Harassment and Violence) Policies.

10.0 Improper Use of Influence

- 10.1 A Member shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.
- 10.2 A Member shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves or their family, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

11.0 Conflicts of Interest

- 11.1 A Member shall recognize that they must comply with the requirements of the *Municipal Conflict of Interest Act* with respect to obligations relating to pecuniary interests. A contravention of the *Municipal Conflict of Interest Act* by a Member shall not constitute a breach of the Code of Conduct but may be enforced in accordance with the provisions of the statute and section 223.4.1 of the *Municipal Act, 2001*.
- 11.2 A Member shall also avoid any conflict of interest that is a non-pecuniary interest in order to maintain public confidence in the Municipality and its local boards. If a Member has a non-pecuniary interest, the Member should declare the non-pecuniary interest and then leave the meeting at which the matter is being considered. Under no circumstance shall the Member participate in any discussion or vote on the matter or attempt to influence the voting on the matter in any way, before during or after the meeting.

12.0 Council Policies and Procedures

- 12.1 A Member shall observe and strictly adhere to any policies, procedures and rules enacted and/or established from time to time by Council.

13.0 Election Activity

- 13.1 A Member is required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any of the Municipality's policies pertaining to elections. The use of the Municipality's resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

14.0 Communications and Media Relations

- 14.1 In order to foster respect for the decision-making process of Council, Members shall fairly and accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings. Members may publicly express the reason for voting differently than the majority but shall always do so in a respectful manner that supports the decisions of Council.
- 14.2 Members shall not indicate, implicitly or explicitly, in any communications with the media that they speak on behalf of Council, unless they have been expressly authorized to do so by Council.
- 14.3 Members shall refrain from making comments of a disparaging nature about Members, staff or persons that relate to the business of the Municipality.

15.0 Social Media

- 15.1 Members using social media shall:
- (a) ensure that all posts are accurate before uploading content to the internet;

- (b) obtain permission before posting any third-party content;
- (c) follow the same principles and guidelines as for other forms of communication by employing sound judgment and common sense, by acting with respect, dignity, courtesy and empathy; and
- (d) ensure that it is noted that communications that are Member and constituent-related do not necessarily reflect the existing or future opinions, views or decisions of the Council.

16.0 Respect for the Code of Conduct

- 16.1 A Member shall respect the process for complaints made under the Code of Conduct, applications under the *Municipal Conflict of Interest Act* or through any process for complaints adopted by the Municipality.
- 16.2 A Member shall not act in reprisal or threaten reprisal against any person, including another Member, who makes a complaint or provides information to the Integrity Commissioner during an investigation.
- 16.2 A Member shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner. A Member shall not act in reprisal or threaten reprisal against the Integrity Commissioner or any person acting under the instructions of the Integrity Commissioner. The Integrity Commissioner is authorized to report any incidents of threats or reprisals to Council or the local board by a Member and may recommend penalties or remedial or corrections measures or actions against such Member. The Integrity Commissioner is also authorized to report to Council or the local board any attempt by a Member to use their office to influence any decision or recommendation of the Integrity Commissioner.
- 16.3 A Member shall cooperate with requests for information during any investigations or inquiries under the Code of Conduct and shall not:
- (a) interfere with or obstruct an investigation by the Integrity Commissioner;
 - (b) destroy or damage documents or erase any digital or electronic communications or records;
 - (c) refuse to respond to the Integrity Commissioner where a complaint has been filed under the Code of Conduct or any process for complaints adopted by the Municipality; or
 - (d) attempt to influence any other Member or staff with respect to the subject matter of the investigation or inquiry except as may be permitted pursuant to subsections 5(2.1) and 5.2(2) of the *Municipal Act Conflict of Interest Act*.
- 16.4 Staff shall remain neutral and impartial, and not seek to interfere with or attempt to subvert or obstruct the Integrity Commissioner in any way in carrying out its responsibilities and functions. Staff shall comply with any requests from the Integrity Commissioner for any assistance or information.

17.0 Penalties for Non-Compliance with the Code of Conduct

17.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council may impose the following penalties on the Member:

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

17.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 17.1 on its Member, the Integrity Commissioner may report to the local board that, in his or her opinion, the Member has contravened the Code of Conduct in which case the local board may impose the penalties set out in Section 17.1.

18.0 Remedial Measures or Corrective Actions

18.1 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following corrective actions or remedial measures, and require that the Member:

- (a) provide a written or verbal apology;
- (b) return property or make reimbursement of its value or of money spent;
- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council; and
- (e) comply with any other remedial measure or corrective action deemed appropriate by the Integrity Commissioner.

18.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 17.1 on a Member or any remedial or corrective actions under Section 18.1, the local board may impose such remedial or corrective actions as are set out in Section 18.1(a)-(e).

19.0 Legal Fees

19.1 A Member of Council is entitled to seek the advice of the Integrity Commissioner with respect to their *own* obligations under the Code of Conduct, any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*. As such, a Member is solely responsible for their own legal costs if they retain a lawyer or paralegal to provide legal counsel, advice or representation on any matter related to the Code of Conduct, any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, including, but not limited to, an investigation and the imposition of penalties or remedial or corrective actions recommended by the Integrity Commissioner or as imposed by Council, a complaint to the Ontario Ombudsman or a judicial review application to the courts from a decision of Council based on a report and recommendations from the Integrity Commissioner, or any other related proceeding.

20.0 Complaint Protocol

20.1 The Complaint Protocol is Appendix “B” to the Code of Conduct and applies to complaints under the Code of Conduct and applications under the *Municipal Conflict of Interest Act*.

21.0 Short Title

21.1 This Code of Conduct for Members of Council and Local Boards shall be referred to by its short title “Council Code of Conduct”.

APPENDIX “A”

DISCLOSURE STATEMENT FOR GIFTS OR BENEFITS

Member’s Name: _____

Gift Received: _____

Received From: _____

Date of Receipt: _____ Value or Estimate of Gift: _____

Please describe the circumstances under which the Gift was received:

Please describe your intentions with respect to the Gift:

Do you anticipate transferring the Gift described above to the Municipality or the local board?

Yes, immediately _____ No _____

Member’s Signature

Date

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