



Township of East Zorra-Tavistock

General Policy Manual

Title: Council Code of Conduct	
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Application: Council Members, Local Board Members, Advisory Committee Members	
Notes:	

INTRODUCTION

A written Code of Conduct helps to ensure that the members of Council, advisory committees and local boards of the municipality (as defined in the Municipal Act, 2001) share a common understanding of acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate. Such standards should serve to enhance public confidence that the Township's elected and appointed representatives operate from a base of integrity, justice and courtesy; avoiding the improper use/influence of their office and conflicts of interest, be they real or perceived. This builds support for local government and the political process.

Four pieces of provincial legislation govern the conduct of elected officials and include:

1. The Municipal Act as amended, and the Council Procedural By-law passed under section 238 of that Act;
2. The Municipal Conflict of Interest Act as amended;
3. The Municipal Elections Act, 1996 as amended; and,
4. The Municipal Freedom of Information and Protection of Privacy Act.

The Criminal Code of Canada also governs the conduct of members of Council.

PURPOSE

To identify the Township's expectations of its members and to set guidelines for appropriate behaviours, in order to:

1. Protect the public interest;
2. Encourage the highest of ethical standards among members;
3. Provide an understanding of the fundamental rights, privileges and obligations;
4. Offer a procedure on the determining the appropriateness of conduct; and,
5. Identify a means of correcting inappropriate conduct.

The following key principles provide the foundation for the Code of Conduct. Members shall/are:

- Serve and be seen to serve constituents in a conscientious and diligent manner;
- Committed to performing their functions with integrity, honesty and accountability;
- Make decisions that are made in the open, transparent and equitable through the proper processes;
- Show respect and fairness for differences of opinion;
- Work together for the common good of the community and its residents;
- Demonstrate an understanding of the fundamental rights, privileges and obligations of their elected position;
- Perform their duties to promote public confidence and bear close public scrutiny; and,
- Sets out the means of correcting unethical conduct.

The Code of Conduct is meant to identify the standards to:

- Ensure equitable treatment of citizens and employees;
- Communicate corporate and community priorities;
- Ensure compliance with statutory requirements;
- Minimize liability risks;
- Ensure accountability by elected officials;
- Ensure optimal use of available resources;
- Implement the corporate and community strategic plans; and,
- Set limits on governance and operational matters.

The Township's Code of Conduct is a general standard that augments the provincial laws and municipal policies and by-laws that govern their conduct. It is not intended to replace personal ethics. This Code of Conduct is consistent with the existing statutes governing the conduct of members.

POLICY

1. Definitions

“Child” means a child born within or outside marriage and includes an adopted child or a person who a parent has demonstrated a settled intention to treat as a child within his or her family.

“Confidential Information” includes any information that is of a personal nature to Township employees, clients or information in the custody or under the control of the Township that is not available to the public and that, if disclosed, could result in loss or damage to the Township or could give the person to whom it is disclosed an advantage.

“Corporate Resource” includes, but is not limited to, Township equipment, supplies, services, tools, property (both physical and intellectual), systems, software systems, website, domain name, logo, handheld mobile devices, cell phone, phone, address, voice-mail, e-mail, facility and staff while undertaking duties on behalf of the Township.

“Immediate Relative” shall be defined as a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law as well as step-relationships.

“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” shall mean the person to whom a person is married or with whom the person is living in a conjugal relationship outside of marriage.

2. Roles and Responsibilities

The Code of Conduct shall apply to all members of Council, advisory committees and of local boards of the municipality (as defined in the Municipal Act). It is the responsibility of the Members to ensure that they, as individuals or as a Council or Committee, adhere to and uphold the Code.

Members must recognize their responsibility to:

- Represent the diversity of community views in a fair and equitable manner, while developing an overall strategy for the future of the Township;
- Perform their duties in an impartial manner;
- Endeavour to demonstrate sound financial management, planning and accountability; and,

- Be aware of and understand statutory obligations imposed upon individual members and Council as a statutory body regarding, but not limited to, conflict of interest and confidentiality.

3. Respect for the Township and its By-laws and Policies

Members shall encourage public respect for the Township and its by-laws and policies as approved by Council.

4. Representing the Township

Members shall make every effort to participate diligently in the activities of the agencies, boards, and commissions to which they are appointed and further, shall participate in community activities and events where possible and practical to do so as to increase the exposure of all representatives of the Township to the public and supporting agencies.

5. Conduct at Meetings

During Council, committee or any other advisory committee meeting or a working group meeting, Members shall conduct themselves with decorum, in accordance with the provisions of the Township's Procedural By-law. Respect for delegations and for fellow members, staff and public requires that all members show courtesy and not distract from the business of the Council during presentations and when other members have the floor.

Further to the provisions contained in the Township's Procedural By-law, cell phones, handheld mobile devices or similar equipment shall be:

- (a) On vibrate or silent while in open session;
- (b) Not used by a member during open session, unless under extenuating emergency circumstances; and,
- (c) Turned off while in closed session.

6. Confidentiality

All information, documentation or deliberation received, reviewed or taken in or in preparation for closed session of Council and its committees, is confidential.

Members shall not disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council.

Under the Procedural By-law (authorized under s. 239 of the Municipal Act, 2001), where a matter that has been discussed at closed meeting remains confidential, no member shall disclose the content of the matter, or the substance of deliberations, of the closed meeting.

Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential. Particular care should be exercised in ensuring confidentiality of the following types of information:

- The security of the property of the municipality or local board;
- Personnel matters about an identifiable individual, including municipal or local body employees;
- A proposed or pending acquisition or disposition of land by the municipality or local board;
- Labour relations or employee negotiations;
- Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- A matter in respect of which a Council board, committee or other body may hold a closed meeting under another Act;
- Items under litigation, negotiation, or personnel matters;
- Information that infringes on the rights of others (e.g. sources of complaints where the identity of a complainant is given in confidence);
- Price schedules in contract tender or Request for Proposal submissions, if so specified;
- Information deemed to be “personal information” under the Municipal Freedom of Information and Protection of Privacy Act; and
- Statistical data required by law not to be released (e.g. certain census or assessment data)

This list is provided as an example and is not exclusive or exhaustive. Requests for information should be referred to appropriate staff to be addressed as either an informal request for access to municipal records or as a formal request under the Municipal Freedom of Information and Protection of Privacy Act.

Members shall not access or attempt to gain access to confidential information in the possession of the Township unless it is necessary for the performance of their duties and not prohibited by law or Council policy.

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

7. Conflict of Interest

Members shall recognize their obligations to follow and respect the provisions of the Municipal Conflict of Interest Act. A conflict exists when an individual is, or could be, influenced, or appear to be influenced by a personal interest, financial (pecuniary) or otherwise, when carrying out their public duty. Personal interest can include direct or indirect financial interest, bias, prejudgement, close mindedness or undue influence.

When considering whether or not a conflict exists, it is important to consider whether there are grounds for a reasonable person to think that a conflict exists. It is possible to have a conflict that might not be financial. The perception of a conflict must be considered under this policy by all parties. It is the responsibility of individuals to obtain independent legal advice with respect to any situation that might arise whereby there is a potential for a conflict of interest.

Members must publicly declare their direct or indirect pecuniary interest. When a pecuniary interest exists, Members must withdraw from direct involvement, by vacating the Council table when the matter is debated and refrain from any comment on the issue which might influence the decision. They are not eligible to vote on the matter. If the matter is of a confidential nature and discussed in closed session, Members shall vacate the meeting room entirely.

8. Benefits, Gifts or Hospitality

The Township recognizes that moderate hospitality is an accepted courtesy of a business relationship. However, members shall not accept a fee, advance, gift, benefit, service, entertainment or hospitality that is connected directly or indirectly with the performance of his or her duties of Office, which could be seen to compromise their decision on a matter or create any obligation or special consideration by an individual, group or organization, 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 the member's duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- (a) Compensation authorized by by-law;
- (b) Such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) A political contribution otherwise reported by law;
- (d) Services provided without compensation by persons volunteering their time;
- (e) A suitable memento of a function honouring the member;
- (f) Food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign country;
- (g) Food and beverages consumed at banquets, receptions or similar events, if:
 - a. Attendance serves a legitimate purpose;
 - b. The person extending the invitation or a representative of the organization is in attendance; and
 - c. The value is reasonable and the invitations infrequent
- (h) Communication to the offices of a member, including subscriptions to newspapers and periodicals.

In the case of categories (b) (e) (f) (g) and (h), if the value of the gift or benefit exceeds \$200, or if the total value received from any one source during the course of a calendar year exceeds \$200, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Chief Administrative Officer.

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) The estimated value;
- (e) What the recipient intends to do with the gift; and,
- (f) Whether any gift will at any point be left with the Township.

Any disclosure statements will be a matter of public record.

On receiving a disclosure statement, the Chief Administrative Officer shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. In the event that the Chief Administrative Officer makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Chief Administrative Officer determine that receipt was inappropriate, a written report shall be presented to Council in closed session whereby Council may:

- Direct the member to return the gift;
- Reimburse the donor for the value of any gift or benefit already consumed;
- Forfeit the gift; or,
- Remit to the Township, the value of the gift or benefit if already consumed.

Members shall not seek or obtain by reason of his or her office any personal privilege or advantage with respect to Township services that are not otherwise available to the general public and not consequent to his or her official duties.

9. Business Relations

A member shall not borrow money from any person who regularly does business with the Township unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

No member shall act as a paid agent before Council or a committee of Council or any agency, board, or committee of the Township.

10. Communications / Media Relations

Members shall show respect for the decision-making process of Council. Information concerning adopting policies, procedures and decisions of the Council shall be conveyed openly and accurately even if members disagree with the decision of Council.

Confidential information may be communicated only when and upon determination by Council.

Members shall accurately communicate the decisions of Council even if they disagree with the decision of Council.

Members shall not use his/her office to promote or sponsor commercial products or events other than Township-sponsored products or events.

11. Expenses

Members shall comply with the provisions of the Township's mileage allowance and expense allowance policies when attending conferences, conventions, seminars, training Courses and workshops.

12. Use of Township Property, Services and Other Resources

No member shall use for personal purposes any Township property, equipment, services, supplies or services of consequence other than for purposes connected with the discharge of Township duties or associated community activities of which Township Council has been advised.

No member shall obtain financial gain from the use of Township developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains exclusive property of the Township.

No member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties.

13. Use of Township Technology Resources

Members shall comply with the provisions of the Township's Technology Use Policy. The Township licenses the use of computer software from a variety of vendors. The Township does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable licence.

The Township is the sole owner of all municipal hardware and reserves the right to examine all files, e-mail directories and other information stored on Township owned computers, phones, tapes and disks.

14. Elections – Campaign Material / Promotion

Members shall not use a Corporate Resource for any election related purpose. Members shall not campaign, distribute or display any election related material at any Township facility, Township hosted meeting or event.

Upon registration as a candidate or June 30th in an election year, the following Township services will be unavailable:

- (a) All forms of advertising, including advertising in Township owned or distributed publications (both in print and on-line); or,
- (b) Preparation, printing or distribution of any newsletters and pamphlets (either hard copy or electronic).

Members may rent a Township facility at his/ her own personal expense, at any time.

Members may, as part of the performance of their regular duties, continue to use a Corporate Resource which includes the preparation, printing and distribution of a flyer or notice, provided that the content of the communication is for the purpose of:

- (a) Communicating and conducting a community meeting;
- (b) Communicating to the community a single specific issue.

And, subject to the purpose of the community meeting and any communication being approved by the CAO.

Contact information for members routinely contained in a Township publication or on the Township's website is permitted, including a Member's Profile information.

Members are responsible for ensuring that the content of any communication material funded or resourced by the Township does not contain or allude to any election related material including the name, photograph or identity of a registered Candidate, in any level of government.

Nothing contained in this section of the Code of Conduct is intended to prohibit Members from continuing to fulfil regular duties as a Member.

15. Public Meetings

Staff will provide support to Council for public information meetings required by Provincial statutes, Township by-laws and special meetings, when approved by Council.

In the event that a Member desires a public meeting, which supplements a public meeting required by Provincial statute or a municipal by-law, a member shall make the request through Council or the Chief Administrative Officer.

At a public meeting, Members will not pressure staff to respond to questions that do not support Council's decision.

16. Role of Staff

Members shall be respectful of the fact that staff work for the Township as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any individual member or group of members of Council.

In addition, members shall be respectful of the fact that staff carry out directions of Council and administer the policies of the municipality, and are required to do so without any undue influence from any individual member or group of members of Council.

The Council directs the business of the Township and passes by-laws, or resolutions as appropriate, for decisions adopted by Council. Council has delegated responsibility to the Chief Administrative Officer for the administration of the affairs of the Township in accordance with the by-laws adopted. This means that under the direction of the Chief Administrative Officer, Staff has the responsibility and the authority to provide consultation, advice and direction to Council and to implement Council approved policy. Accordingly, Staff establishes the appropriate administrative policies, systems, structures and internal controls to implement the goals and objectives of Council, and to manage implementation within the resources at their disposal. The Council should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalties of persons in power, or their personal opinions.

17. Harassment or Bullying

Harassment of another member, Staff or any member of the public is misconduct. It is the policy of the Township that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment.

Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place or origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the Ontario Human Rights Code.

In addition to the Code of Conduct, the Ontario Human Rights Code applies, as does the Township's Respect in the Workplace Policy.

18. Current and Prospective Employment

Members shall not allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the Township.

19. Employment of a Council Member's Relative

Members shall comply with the provisions of Township Hiring and Recruitment Policy.

APPLICATION

20. Integrity Commissioner

Where a Council adopts a Code of Conduct, the Municipal Act authorizes the Municipality to appoint an Integrity Commissioner to receive and assess alleged breaches of the Code of Conduct, and where deemed appropriate, conduct an investigation of the alleged breach. The Integrity Commissioner is a Statutory Officer under the Act under contract to the Municipality, with a direct reporting function to Council. It is their duty to ensure an unbiased, fair and appropriate process be undertaken to consider complaints regarding the Code of Conduct and recommend a decision.

As part of the Council Code of Conduct, the Township has decided to appoint an Integrity Commissioner.

21. Integrity Commissioner Vacancy

Should the office of Integrity Commissioner be vacant for whatever reason, the Code of Conduct remains in effect and all Members shall continue to abide by the provisions set out therein. When a vacancy occurs, all formal complaints shall be heard by the Mayor and Chief Administrative Office (CAO), only until such time as a new Integrity Commissioner has been appointed. If the Municipality has not yet appointed an Integrity Commissioner, the default complaint investigator shall be the Mayor and CAO.

22. Protocol for Complaint Process

Members, Staff or members of the public, who have reasonable grounds to believe that a Member is not in compliance with the Code of Conduct, may proceed through the complaint process. Complaints may be instigated either informally or formally:

- 1) Informal – requires the complainant to advise the Member that his/her behaviour or activity does not comply with the Code and request that the prohibited behaviour be discontinued. A written record of the incident including the date, time, location, other persons present and any other relevant information should be kept. If applicable, advise the Member regarding the complainant's satisfaction/dissatisfaction with the response and consider the need to pursue the matter further with the formal complaint procedure or in accordance with an applicable judicial process.

- 2) Formal - requires that a complaint must be made in writing setting out the grounds for the belief that there is an alleged contravention. Amongst the information provided, each complaint shall include a supporting sworn affidavit that sets out the evidence in support of the complaint. The complainant's name can become public if an investigation is launched. The complaint shall be filed through the Clerk, or designate.

23. Review and Investigation Process

Upon receipt of a Formal Complaint, the Clerk shall forward the executed Affidavit along with the relevant background material and information directly to the Integrity Commissioner for review, investigation and reporting with recommendations, regarding the complaint.

1. If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to the Code of Conduct, the Integrity Commissioner shall advise the complainant in writing as follows:
 - a. Criminal Matter – if the complaint is an allegation of a criminal nature consistent with the Criminal Code, that pursuit of such an allegation must be made through the appropriate police service;
 - b. Municipal Conflict of Interest – if the complaint is an allegation with respect to matters under the Municipal Conflict of Interest Act, then the matter should be pursued in accordance with the Act through a court application;
 - c. Municipal Freedom of Information and Protection of Privacy – if the complaint is more appropriately addressed under the Municipal Freedom of Information and Protection of Privacy Act, then the matter will be referred to the Clerk for review under statute.
2. If upon review of a complaint, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are not sufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this determination in writing to the complainant and the Member identified in the Affidavit.
3. If at any time, following the receipt of a formal complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be made to achieve an informal resolution.

4. If the Integrity Commissioner determines that a formal investigation is required s/he shall proceed in the following manner, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under ss. 33 and 34 of the Public Inquiries Act, 2009, as contemplated by subsection 223.4(2) of the Municipal Act, 2001, at which time the identity of the person filing the complaint is no longer considered confidential.
5. The Integrity Commissioner shall provide a copy of the complaint, and any supporting materials, to the Member whose conduct is in question, with a request that a written response to the allegation be provided to the Integrity Commissioner within fourteen (14) days.
6. The Integrity Commissioner shall give a copy of the response, provided by the Member, to the complainant, with a request for a written reply within fourteen (14) days.
7. If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any Town or Local Board work location relevant to the complaint for the purpose of investigation and potential resolution.
8. The Integrity Commissioner may make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation encountered during the investigation.
9. At any time the complainant may abandon the request for an investigation and the Integrity Commissioner will cease his or her investigation.
10. If the Integrity Commissioner receives a complaint between nomination day as defined in the Municipal Elections Act, 1996 and the date of the inaugural meeting of Council in any year in which a regular municipal election will be held respecting a Member who is seeking re-election and he is of the opinion that it is politically motivated, he may stay the investigation until after the inaugural meeting of the newly-elected Council.
11. The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the Town or not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the

Municipal Act, 2001. Pursuant to section 223.5(3) of the Municipal Act, this section prevails over the Municipal Freedom of Information and Protection of Privacy Act.

12. When the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that in the Integrity Commissioner's opinion is required for the purposes of the report.
13. When the Integrity Commissioner issues an annual or other periodic report to Council on his or her activities, the Integrity Commissioner shall summarize the advice he or she has given, but the report shall not disclose confidential information that could identify a person concerned in the case of informal complaints or those formal complaints that have been dismissed and did not proceed to a formal investigation.

24. Reporting and Recommendations

Upon completion of an investigation, the Integrity Commissioner may report to the complainant and the Member on the results of his or her review within ninety (90) days of receiving a complete Affidavit/ Complaint package. If the investigation process is going to take more than ninety (90) days, the Integrity Commissioner shall provide an interim report to the complainant and Member indicating when the complete report will be available. If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code of Conduct has occurred, the Integrity Commissioner shall report his or her findings to Council including a recommendation as to the imposition of a penalty, as set out in subsection 223.4(5) of the Municipal Act, 2001.

The Integrity Commissioner shall provide the Member who is the subject of the complaint with notice in writing of the proposed finding and any recommended sanction at least ten (10) days prior to the report being provided to the Municipal Clerk. An opportunity to comment shall be provided to the Member on the proposed finding and any recommended sanction prior to the report being published.

25. Penalty - Non-Compliance with the Code of Conduct

The Council may impose either of the following penalties on a Member if a report by the Integrity Commissioner determines that the Member has violated the Code of Conduct:

- (a) Reprimand the Member;
- (b) Suspend the remuneration paid to the Member in respect of their services as a Member of Council or of the local board, for a period of up to ninety (90) days.

26. Annual Report

The Clerk shall prepare an annual Code of Conduct Report that shall consist of:

1. All informal and formal complaints dismissed by the Integrity Commissioner;
2. All complaints received not within the jurisdiction of the Integrity Commissioner;
3. All formal complaints that underwent a formal investigation and conclusions; and,
4. A cost breakdown with respect to services provided within the reporting year by the Integrity Commissioner.

The annual report shall be provided not less than sixty (60) days after December 31 of the calendar year that is being reported.

27. Implementation

Members seeking clarification of any part of this Policy should consult with the Chief Administrative Officer.

At the beginning of each term of Council, the Clerk will:

1. Provide each member with a copy of the Code of Conduct;
2. Provide each member with a copy of the Municipal Conflict of Interest legislation;
3. Undertake a review of the Code of Conduct as part of the Council orientation process; and,
4. Have each member sign an “Acknowledgement of Code form” indicating that the Code of Conduct has been read and understood.

Members are expected to formally and informally review the Code of Conduct on regular basis, as needed or when so requested by Council.

28. Policy Review

This policy shall be reviewed once during each term of Council.