CODE OF CONDUCT - COUNCILLORS

1. Introduction

The purpose of this Code of Conduct is to establish standards of conduct for councillors. Part III of the **Municipal Conduct Act** (the Act), requires that municipalities establish a Code of Conduct to govern the conduct of members of council, and sets out minimum requirements for the Code of Conduct.

Councillors are expected to conduct themselves ethically and professionally, and in accordance with this Code of Conduct. The principles underlying the Code of Conduct are integrity, honesty, impartiality, responsibility, and accountability.

2. Application

This Code of Conduct applies to councillors acting in their official capacity as councillors, as well as a councillor's off duty conduct that is sufficiently connected to the office of councillor or that could reasonably discredit the reputation of the Municipality.

Interpretation: For the purpose of this policy, Chief Administrative Officer or CAO refers to the person appointed to the position of Manager under the Municipalities Act, 1999. In the event a municipality has not established the position of a town manager, the duties of the CAO under this Code of Conduct shall be performed by the Town Clerk.

3. Standards of Conduct:

Standards of Professional Behaviour

3.1.1. Councillors must abide by the Council's Rules of Procedure.

3.1.2. Councillors must work in the best interest of the municipality without regard for their personal interests.

3.1.3. Councillors must act competently and diligently and perform at a level expected of those working in the public interest.

3.1.4. Councillors must be respectful of the presiding officer, their colleagues, staff, and members of the public at all times, including during council meetings and proceedings of the municipality.

3.1.5. Councillors must be prepared for meetings, aware of agendas, informed of issues, and contribute to debate in a manner that is meaningful, candid, honest, respectful, and equitable.

3.1.6. Councillors must act in a manner which supports respectful, transparent, and informed debate.

3.1.7. Councillors must use language which is inclusive, respectful, and refrain from using language which could be interpreted as abusive or disrespectful.

3.1.8. Councillors must, in private and public, conduct themselves in a manner which does not bring disrepute to themselves, their position, the Council, or the municipality.

3.1.9. Councillors must not make decisions, take positions, or make statements which are unreasonable, unjust, arbitrary, oppressive, or discriminatory.

3.2. Use of Influence

3.2.1. Councillors must only use the influence of their position for the exercise of their official duties.

3.2.2. Councillors must not use their authority or influence in a manner that could reasonably be perceived as threatening, coercing, or improperly influencing the actions of a municipal official or in a manner which interferes with the municipal official's responsibilities.

3.2.3. Councillors are prohibited from accepting gifts, favours, or free or discounted services from any individual, vendor, contractor or others which could reasonably be perceived to show undue favour, bias, or disadvantageto any individual or organization or could reasonably be perceived to place the councillor in a conflict of interest.

3.2.4. Councillors must not communicate on behalf of the Municipality unless authorized by council or by virtue of a position or role the councillor has been authorized to undertake by council.

3.3. Misuse of Public Assets and Fraud

3.3.1. Councillors must report all expenses promptly, accurately, provide adequate detail, and shall maintain all receipts, invoices, and other relevant financial records and details when claiming expenses.

3.3.2. Councillors must ensure that the business of the municipality is conducted efficiently and must avoid waste, abuse, and extravagance in the provision and use of municipal resources.

3.3.3. Councillors must not request, use, or permit the use of municipal-owned vehicles, land, equipment, materials, or other property for personal convenience or profit, except where such privileges are granted to the general public.

3.4. Confidentiality

3.4.1. Councillors must not disclose confidential information obtained in the course of their duties, except as required by law or as authorized by the Municipality to do so.

3.4.2. Councillors must not use confidential information or official information which is not in the public domain for personal or private gain, the private gain of others, or a corporation.

3.4.3. The collection, protection, access, use, disclosure, and disposal of personal information may only occur in compliance with the **Access to Information and Protection of Privacy Act, 2015** (ATIPPA, 2015)**.**

3.4.4. Confidential information means: information in the custody and/or control of the municipality that is prohibited from disclosure pursuant to legislation or court order or any other information regarding to the business of the municipality generally considered to be of a confidential nature, including, but not limited to:

a) Any matter that falls under the exceptions to disclosure identified in the **Access to Information and Protection of Privacy Act,** whether or not a request for access has been made.

b) Personal information the disclosure of which would constitute an unreasonable invasion of privacy.

c) Potential acquisitions or disposition of real property.

d) Information which would reveal the substance of deliberation of a privileged meeting.

e) Pending contracts including tenders, requests for proposals (RFPs), and records related to potential procurement.

f) Draft documents and legal instruments including reports, policies, bylaws and resolutions that have not been the subject matter of deliberation in a meeting open to the public.

g) Employment and collective bargaining matters.

h) Legal matters.

i) Law enforcement matters.

3.5. Social Media

3.5.1. Councillors must not engage in conduct on personal or official social media platforms which would bring the integrity of themselves, the council, or the Municipality into disrepute.

3.5.2. Councillors must, where possible, conduct municipal business through official accounts and devices and avoid conducting council business on personal devices or through personal accounts.

3.6. Harassment and bullying

3.6.1. The obligations in this section are not intended to fulfill the requirement on a municipality as an employer to implement and maintain a harassment prevention plan, under section 24.1 of the **Occupational Health and Safety Regulations.**

3.6.2. Councillors must not engage in harassment or bullying.

3.6.3. All members of Council shall treat members of the public, one another, staff, and volunteers appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination, bullying and harassment.

3.6.4. Harassment is defined as any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome. Harassment may

be intended or unintended. Harassment may include, but may not be limited to:

a) Abuse of authority – harassment that occurs through a use of authority serving no legitimate work purpose.

b) Discriminatory harassment – harassment that is based on actual or perceived prohibited grounds of discrimination as outlined in the **Human Rights Act, 2010**, such as race, colour, nationality, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, or political opinion.

c) Sexual harassment – harassment which is gender-based or of a sexual nature.

d) Bullying – a repeated pattern of mistreatment aimed at a specific person or group.

3.7. Legislative Compliance

3.7.1. A councillor must reasonably comply with all obligations imposed on councillors by legislation, regulation, and municipal policy and procedures, including but not limited to:

a) **Municipalities Act, 1999**
b) **Municipal Conduct Act**
c) **Municipal Elections Act**
d) **Public Procurement Act**
e) **Urban and Rural Planning Act, 2000**
f) **Access to Information and Protection of Privacy Act, 2015**
g) **Occupational Health and Safety Act**
h) **Human Rights Act, 2010, and,**
i) **Any accompanying regulations**

3.8. No Adverse Actions or Reprisals

3.8.1. Council or councillors must take no action, and must to the best of their ability, ensure no action is taken, which would be reasonably perceived as a reprisal against any person acting in good faith who brings forward a complaint or information which leads to a complaint.

3.9. Allegations in Bad Faith

3.9.1. A councillor or municipal official shall not file a complaint under this policy which is retributive, made in bad faith, or with malicious intent. A complaint will not be deemed to be retributive, made in bad faith, or malicious solely because it is ultimately determined to be unfounded.

3.10. Investigation

3.10.1 A councillor shall not hinder, obstruct, attempt to obstruct, interfere with, threaten, harass or fail to cooperate with a person conducting an investigation under the Act and regulations, and this Code of Conduct.

Part 2

Code of Conduct Complaint and Investigation Process

Receiving a Complaint

1. An individual may file a complaint in accordance with the process set out below where they believe that a councillor or former councillor has contravened this Code of Conduct.

2. A complaint filed under this Code of Conduct shall be filed with the Chief Administrative Officer (CAO).

3. Where the complainant is the CAO, the complaint shall be filed with the Mayor. Where the Mayor is the respondent, the complaint shall be filed with the Deputy Mayor. Where the CAO reasonably believes that neither the Mayor nor Deputy Mayor could act impartially and fairly, the CAO may consult with the Department of Municipal and Provincial Affairs (The Department).

4. Where the complainant is the CAO, the following process will still apply, but the Mayor or Deputy Mayor will act as CAO for the purpose of administering the complaint.

5. The complaint shall be in writing.

6. Notwithstanding section 2, a complaint may be made by other means where the complainant has a limited ability to read or write English or has a disability or condition that impairs their ability to make a complaint.

7. A complaint shall include the following:

    a) The complainant's name

b) The names of the person or persons the complaint is about
c) A summary of the complaint, and any steps taken to resolve it
d) The date that the breach of the code occurred, if known
e) A description of how the complaint can be resolved, if applicable

8. Notwithstanding section 4, a CAO may accept a complaint confidentially where, in the opinion of the CAO, it is reasonable to do so, taking into account the public interest.

9. A complainant may withdraw their complaint in writing or by other means as per section 5. Notwithstanding, the CAO or investigator may continue investigating where it is reasonable to do so, taking into account the public interest.

10. Where a complaint is received alleging criminal behaviour, or at any point it becomes apparent that criminal behaviour may have occurred, the CAO shall immediately contact law enforcement, and notify the Department through the Minister's Office.

11. A person may file a complaint within 6 months of becoming aware of a Code of Conduct violation. The CAO may accept complaints outside of that timeframe in instances of harassment, bullying, financial impropriety, or where it is reasonable to do so, taking into account the public interest.

Informal Resolution

Where the CAO determines the complaint to be interpersonal in nature, or relates to a disagreement, the CAO may ask the parties if they wish to resolve the complaint through mediation, or Alternative Dispute Resolution (ADR).

12. ADR must not be used where there is a significant power imbalance between the complainant and respondent, where there is a reasonable apprehension of harm, where the allegations involve issues of financial impropriety, sexual harassment, violence, criminality, where either party does not consent, or where other circumstances would prevent the success of ADR.

13. Informal resolution efforts shall be concluded within 20 business days, and may be extended for additional business days with consent of both parties and approval of council.

Referral to Council - Resolution or Agreement of Facts

14. As per section 14 (2) of the Act, where a complaint is successfully resolved or not resolved but complainants agree on the facts, the CAO shall provide Council with a report within 14 days.

15. The report shall be in writing, and shall outline the facts agreed to by the parties, the nature of the resolution, and any recommendations of the CAO, where applicable.

16. As per sections 14(4) and (5) of the Act, Council shall review the report at a privileged meeting of Council. Following the review of the report, Council shall open the meeting to the public and shall, by resolution, dismiss the complaint or make a determination that the councillor contravened the Code of Conduct.

17. Where the council determines that a councillor has contravened the Code of Conduct, the council may impose penalties in accordance with section 15.

Formal Investigation

18. Where the complaint is not resolved or the facts are not agreed upon, the CAO may investigate or appoint an investigator. There shall be 40 business days to conclude an investigation from the date the informal resolution period has expired. Upon request of the CAO, council may approve up to an additional 40 business days for the completion of an investigation.

19. The investigator will notify the respondent within five business days of the failure of informal resolution and provide a copy of the complaint.

20. The respondent may provide a written response to the CAO no later than 10 business days after receipt of a copy of the complaint.

21. The investigator will prepare a written report for council.

22. The report shall at a minimum outline the investigative process, facts, analysis, test (an assessment of the facts relative to the Code of Conduct), conclusion, and recommendations. The following format is flexible but may be of assistance.

    a) Introduction
    b) Investigative Process
    c) Background
    d) Events before the incident
    e) The incident(s)
    f) Events after the incident
    g) Evidence
    h) Analysis
    i) Decision
    j) Recommendation(s)

23. Council shall review the report at a privileged meeting, and shall within 20 business days, dismiss the complaint or find that a councillor contravened the code at a public meeting.

24. If council finds a councillor contravened the code, council may, by resolution, take an action as set out in Section 15 (Penalties) of the **Municipal Conduct Act**.

Coming Into Force

This policy was adopted and passed by Council at a meeting held on the 19th day of December, 2022 and are effective as of that date.

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Mayor, Darren Gardner Town Clerk, Sharon Brown