

COUNCIL/COMMITTEE CODE OF CONDUCT

Approval Date:	January 22 nd , 2019
Effective Date:	February 5 th , 2019

Policy Statement:

This Council & Committee Code of Conduct (“**Code**”) establishes standards of conduct for Members of Council & Committees for the Town of East Gwillimbury in the individual conduct of their official duties.

Definitions:

- **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.
- **Clerk:** means the Municipal Clerk for the Town of East Gwillimbury.
- **Committee:** means any board, advisory or other committee, subcommittee or similar entity, as established from time to time by Council.
- **Council:** means the Municipal Council for the Town of East Gwillimbury.
- **Member:** means a member of Council or Committee.
- **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.
- **Region:** means the Regional Municipality of York.
- **Regional Council:** means the Municipal Council for the Regional Municipality of York.

- **Senior Management Team (“SMT”)**: means the team comprised of the Chief Administrative Officer and General Managers.
- **Spouse**: means a person to whom the Member is married or with whom the Member is living in a conjugal relationship outside marriage.
- **Staff**: includes the Chief Administrative Officer, General Manager, Directors, Managers, Supervisors and all non-union and union staff whether full-time, part-time, contract, seasonal or volunteers.
- **Town**: means the Corporation of the Town of East Gwillimbury.

Application (who this policy applies to):

This Code applies to Members acting in their ‘Official Capacity’. This includes, but is not limited to, the conduct of a Member in the following circumstances:

- While on Town property.
- When interacting with Town staff and/or another Member of Council.
- In relation to matters immediately before and/or solely within the purview of Town Council.
- In relation to business directly provided by the Town.
- During a Town event or function.
- During a non-Town event or function where the Member has been expressly invited to or is participating as a representative of Town Council.
- While serving on any Board, Committee or other body to which the Member was appointed by Town Council.

In this context, ‘Official Capacity’ does not relate to the Member’s conduct in the following situations:

- While executing duties as a member of Regional Council.
- In relation to business that is before the Regional Council and/or within the purview of the Regional Council.

- When solely representing Regional Council.

Should an issue arise where it may be unclear whether a complaint falls within the mandate of the Town or the Region, both the Town and the Region Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). In such instances, consideration should be given to the following:

- The municipality in which the complaint was filed.
- The municipality in which the expense/mileage claim was submitted for the event or function.
- The reasonableness for that municipality's Integrity Commissioner to undertake the investigation.

Description:

1.0 Statement of Principles

1.1 The following principles will guide Members and assist with the interpretation of the Code:

- Members shall serve the public in a conscientious and diligent manner.
- Members shall always act and perform their functions with integrity, accountability and transparency, and shall avoid the improper use of influence of their office and conflicts of interest, both apparent and real.
- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and will bear public scrutiny.
- Members will observe and comply with the laws of Canada, laws of Ontario and the bylaws and policies adopted by Council, including but not limited to the following:
 - *Municipal Act, 2001*
 - *Municipal Conflict of Interest Act ("MCIA")*
 - *Municipal Elections Act, 1996*
 - *Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA")*

- Members will seek to advance the public interest with honesty and refrain from making statements known to be false or with the intent to mislead Council, staff or the public.
- Members will refrain from making disparaging comments or unfounded and speculative accusations about the motives of another Member, staff or the public.

2.0 Conduct at Meetings

2.1 Members will conduct themselves at all Council, Committee, and/or any other Town related meetings with decorum and in accordance with the Town's Procedural Bylaw or other applicable procedural rules and policies.

3.0 Staff and Council Relations

3.1 Council as a whole approves budget, policy and governance of the Town through its by-laws and resolutions. Individual Members do not direct or oversee the functions of the administration or staff of the Town or a Committee.

3.2 Members shall respect the role of staff in the administration of the business affairs of the Town. Members shall respect that:

- a) Staff provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members, whether professional, ethical or otherwise.
- b) Under the direction of the SMT, staff serves Town Council as a whole, and the combined interests of all Members as evidenced through Council decisions. Members must not make requests or statements or take actions which may be construed as an attempt to influence the independent administration of Town business. Members 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.
- c) Staff carry out their duties based on political neutrality and without undue influence from any individual Member. Accordingly, Members must not invite or pressure staff to engage in partisan political activities or subject staff to discrimination or reprisal for refusing to engage in such activities.

4.0 Integrity Commissioner and Council/Committee Relations

4.1 The Integrity Commissioner ensures that all Members follow the Code, provides workshops and education sessions for Members, and oversees all Formal Complaints made against a Member.

4.2 The duties of the Integrity Commissioner include but are not limited to the following:

- Determining whether the Code has been breached
- Giving written and verbal advice to Member(s)
- Investigating alleged breaches of the Code
- Providing Council and Town staff with general advice on issues of ethics and integrity, including codes of conduct, policies, protocols and office procedures, and emphasizing the importance of ethics in municipal government.

4.3 In the event that a Member is unsure if a past action or intended action constitutes a breach of the Code, that Member is encouraged to revise the matter with the Integrity Commissioner.

4.4 No Member shall obstruct the Integrity Commissioner in the carrying out of her or his duties.

4.5 No Member shall threaten or undertake any act of reprisal against a person initiating a complaint under the Code of Conduct or who provides information to the Integrity Commissioner in any investigation.

5.0 Use of Town Property

5.1 Council is the custodian of the Town's assets. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

5.2 Members must not use or permit the use of Town lands, facilities, equipment, supplies, services, staff or other resources for activities other than the Town's business. No Member shall seek financial gain for themselves, family or friends from the use or sale of Town property.

6.0 Gifts and Benefits

6.1 Gifts to Members risk the appearance of improper influence. Gifts may induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Town. No Member shall accept a fee,

advance, gift, gift certificate, cash or personal benefit connected directly or indirectly with the performance of the Members duties. A gift, benefit or hospitality provided with the Member's knowledge to a Member's Spouse, Child, or Parent, or to staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

6.2 Notwithstanding Section 6.1, Members may accept a gift or benefits in the following circumstances:

- a) Compensation authorized 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 in accordance with applicable law, in the case of Members running for office;
- d) Services provided without compensation by persons volunteering their time;
- e) A suitable memento from 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 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;
- g) Participating in or consuming food and beverages at banquets, receptions, sporting events or similar functions, if:
 - Attendance serves a legitimate business purpose, or supports a charitable cause in the community, a board of trade or chamber of commerce; and,
 - The person extending the invitation or a representative of the organization is in attendance; and further,
 - The value is nominal.
 - Invitations that are extended to all Members of Council
- h) Gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.)
- i) If the Integrity Commissioner determines that any gift or personal benefit, before the gift or personal benefit has been accepted, is unlikely to give rise to a

reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of the Members duties.

7.0 Confidentiality

7.1 Members receive confidential information from a number of sources as part of their work. This includes, but is not limited to, information the Town receives in confidence 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 one of its Committees.

7.2 No Member shall disclose the content of any such confidential matter, or the substance of deliberations, of a closed meeting. The Member has a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members must not, either directly or indirectly, release, make public or in any way divulge any such confidential information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.

7.3 Members must not disclose, use or release information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Town that is relevant to matters before Council, or a Committee.

8.0 Discrimination and Harassment

8.1 The Town is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization, and to comply with its obligations under the *Ontario Human Rights Code* and the *Ontario Occupational Health and Safety Act*. It is the Town's goal to provide a healthy, safe, and respectful work environment that is free of any form of harassment or discrimination.

8.2 All Members have a duty to treat members of the public, each other, and staff with respect and without abuse, bullying or intimidation and to ensure that the work place is free from discrimination, harassment and violence. In carrying out their affairs, all Members will comply with the Town's Respect in the Workplace Policy as well the *Ontario Human Rights Code* and the *Ontario Occupational Health and Safety Act*.

9.0 Improper Use of Influence

9.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of their official duties.

9.2 Members should not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their

Parents, Children or grandchildren, Spouse, friends or associates, or for the purpose of creating a disadvantage to another person.

10.0 Conflicts of Interest

10.1 Members shall take appropriate steps to avoid conflicts of interest, both apparent and real. Proactive steps to mitigate conflict of interest are important to maintaining public confidence in elected officials. Members may seek guidance from the Integrity Commissioner if they may have a conflict between their responsibilities to the public as a Member of Council and any other interest, pecuniary or non-pecuniary.

10.2 When a Member discloses a pecuniary interest, the Member must file a written statement of the Member's interest at the meeting with the Municipal Clerk, or as soon as possible afterwards.

10.3 The Town is required to establish and maintain a registry of statements and declarations of interests of members, which shall be available for public inspection.

11.0 Election Activity

11.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996*, as may be amended from time to time, and applicable Town policies. The use of Town 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.

12.0 Informal Complaint

12.1 Any person who has identified or witnessed a behaviour or activity by a Member that appears to be in contravention of the Code may voice their concern regarding the Member's behavior directly with the Member. The Member who is the subject of the complaint shall endeavor to resolve the concern with the individual filing the complaint in a respectful manner that is in compliance with the Code.

12.2 In the event that a person wishes to make a complaint without initiating a formal complaint process, that individual may raise their concern regarding any witnessed behaviour or activity by a Member that appears to be in contravention of the Code with the Town Clerk or Town Solicitor. The Town Clerk or Town Solicitor shall endeavor to resolve the complaint in a respectful manner that is in compliance with the Code.

12.3 Any person who has identified or witnessed a behaviour or activity by a Member that appears to be in contravention of the Code may at any time file a Formal Complaint and is not required to first make an Informal Complaint.

13.0 Formal Complaint

13.1 Any person who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code may submit a formal complaint to the Integrity Commissioner in a form prescribed by or acceptable to the Integrity Commissioner.

Responsibilities:

Role: Members

Responsibilities: Adhere to the provisions of the Code and ensure compliance with all applicable legislation as well as all procedures, rules or policies of the Town governing ethical behaviour

Role: Town Integrity Commissioner

Responsibilities: Provide advice to Members with respect to their obligations under the Code and the MCI A.

Investigate complaints related to a Member's alleged non-compliance with the Code.

Determine whether a Member has, in the Integrity Commissioner's opinion, breached the Code and make recommendations on appropriate penalties if applicable.

Provide educational information about the Code, the MCI A, and any additional legislation that may be developed from time to time regarding a Member's conduct.

Non-Compliance:

Allegations of non-compliance with the Code and any Formal Complaint may be investigated by the Integrity Commissioner.

The Integrity Commissioner will establish a process to investigate claims of Code or legislative non-compliance. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation.

Members are expected to cooperate with requests for information during investigations under the Code of Conduct. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code of Conduct or any other process for complaints adopted by the Town.

Where a report is received from the Integrity Commissioner confirming a breach of the Code, Council may impose either of the following penalties on the Member as permitted by the *Municipal Act, 2001*:

- a) A reprimand
- b) A suspension of the remuneration paid to the Member in respect of his or her services on Council for a period up to 90 days

Council may also impose or take, on the basis of a recommendation from the Integrity Commissioner, any or all of the following actions in furtherance of any penalty imposed and require that the Member:

- Provide a written or verbal apology
- Return property or make reimbursement of its value or of money spent
- Be removed from the membership of a Committee
- Be removed as chair of a Committee

Reference:

Legislative and other authorities

- Municipal Act, 2001
- Municipal Conflict of Interest Act
- Municipal Elections Act, 1996
- Municipal Freedom of Information and Protection of Privacy Act

Contact:

Municipal Clerk, Legal & Council Support Services, 905 478 4283 ext. 3821