



THE CORPORATION OF THE TOWNSHIP OF HAMILTON CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

1.0 Application and Purpose

- 1.1 This Code of Conduct applies to all Members of the Council of the Township of Hamilton, including the Mayor and Deputy Mayor and, unless specifically indicated, and with necessary modifications, to all of the Township's committees, agencies, boards and commissions, which comprise and are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*.
- 1.2 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*
- 1.3 This Code applies to members of local boards but it is recognized that such members do not hold elected office nor do they represent the community in general. Members of local boards do not represent Council of the Township as whole unless mandated to do so.

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 Township by its Members as duly elected 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 following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

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

The above statements are key principles that 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.

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 Township;
- (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 Township;
- (d) “confidential information” means information or records that are in the possession, in the custody or under the control of the Township that the Township 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 Township and includes, as the context may require and with all necessary modifications, any of the Township’s committees, agencies, boards or commissions, which are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*;
- (g) “Deputy Mayor” means the member of council who holds the position of Deputy Mayor of the Township;
- (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 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 any committee, agency, board or commission of the Township, which is a local board as defined in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*, and includes a joint board;
- (l) “Mayor” means the head of Council for the Township;
- (m) “media” includes any radio, television, newspaper, magazine, website, blog, social media, twitter feed or any other vehicles for the public dissemination of information, whether digital, electronic or print;
- (n) “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;
- (o) “Member” means a Member of the Council for Township 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;
 - (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 or economic 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 Township’s business and interest;
 - (v) “Township” means The Corporation of the Township of Hamilton; and
 - (w) “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 In all respects, a Member shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Township's Procedure By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) seek to serve their constituents in a conscientious and diligent manner;
- (e) 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;
- (f) refrain from making statements known to be false or with the intent to mislead Council or the public;
- (g) recognize that they are representatives of the Township and that they owe a duty of loyalty to the residents of the Township at all times;
- (h) accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings;
- (i) not publicly criticize staff; and
- (j) refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

5.0 The Role of Staff

5.1 Council as a whole approves the budget, policies and governance of the Township through its by-laws and resolutions. An individual Member does not direct nor oversee the functions of the staff of the Township.

5.2 Township staff serve Council and work for the Township 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 Township when requesting information or advice from staff.

5.3 A Member shall comply with the Township's Council and Staff Relationship Policy.

- 5.4 If a Member has any issue with respect to any staff member, such issue shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior and, in the case of the CAO, to the Mayor.
- 5.5 A Member shall respect the role of staff in the administration of the business and governmental affairs of the Township, 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 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 Township Property

- 6.1 Council is the custodian of the assets of the Township. 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 Township's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Township 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 Township's intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Township.
- 6.3 A Member shall not use any Township property for activities not associated with their duties of office unless prior approval has been granted by Council.

7.0 Gifts and Benefits

- 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 Township. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality, loan or any form of personal benefit connected directly or indirectly with the performance of his or her duties except as provided in Section 7.2. A gift, benefit or hospitality 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. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.

- 7.2 For greater clarity, despite Section 7.1, a Member is entitled to accept any compensation, remuneration or benefits authorized by law but shall not accept any gift or benefit other than in the following circumstances:
- (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - (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 Township;
 - (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 normal business of the Township,
 - (ii) the person extending the invitation or a representative of the organization is in attendance, and
 - (iii) the value is determined by the Integrity Commissioner to be reasonable and the invitations are infrequent;
 - (g) gifts not having a value greater than \$200.00 per annum;

- (h) benefits received as a door prize, raffle or similar draw at an event, conference or seminar attended by the Member; and
- (i) any gift or benefit, if the Integrity Commissioner is of the opinion that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

7.3 A Member who has received and accepted a gift or benefit pursuant to Section 7.2(a), (f), (g), (h) and (i) shall file a disclosure of the gift or benefit indicating the person, body or entity from which it was received together with the estimated value of the gift or benefit in accordance with the Disclosure Statement set out in Appendix "A". A Member shall provide the Disclosure Statement to the Clerk on an annual basis by March 31 for the preceding calendar year and it shall be a matter of public record.

7.4 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 Township 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, include, but are not limited to:

- (a) matters related to ongoing litigation or negotiation, or that is 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) personnel 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 Township.

- 8.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of 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. Any hard copies of confidential documents received at a closed meeting are to be turned into the Clerk at the end of the closed meeting. 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 Township 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 Township and must follow the same processes as any private citizen 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 Township, 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. 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.

- 9.3 A Member shall comply with the Township's workplace harassment and violence policy.

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, their parents, children or grandchildren, spouse, or friends or associates, 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 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* shall not constitute a breach of the Code of Conduct and 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 seek to avoid conflicts of interest that are non-pecuniary in nature in order to maintain public confidence in the Township 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 and shall not participate in any discussion or vote on the matter and shall not attempt to influence the voting on the matter in any way, before during or after the meeting.
- 11.3 Members are encouraged to seek guidance from the Integrity Commissioner when they become aware that they may have a conflict of interest between their responsibilities to the public as a Member and any other pecuniary interest or non-pecuniary interest.

12.0 Council Policies and Procedures

- 12.1 A Member shall observe and adhere to the by-laws, 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 Township's policies pertaining to elections. The use of the Township'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, even if they disagree with its decision(s). Members may publicly express disagreement with a decision but shall do so in a respectful manner that does not belittle, ridicule or disrespect the decision or any Members who voted in favour of the decision.
- 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 at all times from making any comments of a disparaging nature about any Member, any Staff or any persons of the public.

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 manner and by adhering to all of the General Principles set out in the Code of Conduct; 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, the *Municipal Conflict of Interest Act* or through any process for complaints adopted by the Township. A Member 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. A Member shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner. 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 and may recommend penalties or remedial or corrections measures or actions.

- 16.2 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 electronic communications; or
 - (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 Township.

17.0 Declaration of Office

- 17.1 Members are expected to adhere to the specific declarations as well as the spirit of the promises they made to abide by various duties when they swore their declaration of office under section 232 of the *Municipal Act, 2001*.

18.0 Penalties for Non-Compliance with the Code of Conduct

- 18.1 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; 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.
- 18.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 18.1 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 18.1.

19.0 Remedial or Corrective Actions

19.1 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following corrective or remedial actions, 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 or corrective action or measure deemed appropriate by the Integrity Commissioner.

19.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 18.1 on its Member or any remedial or corrective actions under Section 19.1, the local board may impose such remedial or corrective actions as are set out in Section 19.1.

20.0 Legal Fees

20.1 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 his or her own legal costs if they retain a lawyer or paralegal to provide 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 and imposed by Council, a complaint to the Ontario Ombudsman or a judicial review application to the courts from a decision of Council based on recommendations from the Integrity Commissioner.

21.0 Complaint Protocol

21.1 The Complaint Protocol is Appendix "B" to the Code of Conduct and applies to complaints and requests under the Code of Conduct and the *Municipal Conflict of Interest Act*.

22.0 Complaint Protocol

- 22.1 The Integrity Commissioner shall provide an Annual Report to Council in March in each year detailing its activities, including advice, education and investigations over the previous year and such periodic reports as the Integrity Commissioner consider may be necessary for the purposes of discharging its obligations to the Council and the Township.



APPENDIX "A"
DISCLOSURE STATEMENT FOR GIFTS OR BENEFITS

Member's Name: _____

Gift Received or Nature of Benefit: _____

Received From: _____

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

Please describe the circumstances under which the Gift or Benefit was received:

Please describe your intentions with respect to the Gift or Benefit:

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

Yes, immediately _____ No _____

Member's Signature

37425834.2

Date