



POLICY

TITLE: Code of Conduct for Members of Council and Local Boards
NUMBER: COU-004
CATEGORY: Council
DATE: August 29, 2018
REFERENCES: By-law 2018-77
Section 223.2 of the Municipal Act, 2001

1.0 Preamble

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the Municipality of Centre Hastings' reputation and integrity.

To these ends, the Province of Ontario and the Municipality of Centre Hastings endorse the following principles in relation to the duties of members of councils and of local boards under the *Municipal Conflict of Interest Act*:

- The importance of integrity, independence and accountability in local government decision making.
- The importance of certainty in reconciling the public duties and pecuniary interests of members.
- Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
- There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise. In response to this requirement, the Municipality has revised and updated the original *Code of Conduct*. It is intended to supplement and be compatible with the laws governing the conduct of members.

In addition, Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament, the Ontario Legislature, and the policies adopted by Centre Hastings Council.

2.0 Legislative and Administrative Authorities

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members. The following provincial legislation governs the conduct of members:

- The *Municipal Act, 2001, as amended* and the *Municipality of Centre Hastings Procedural Policy COU-001* passed under section 238 of that Act;
- The *Municipal Conflict of Interest Act, 1990, as amended*;
- The *Municipal Elections Act, 1996, as amended*; and
- The *Municipal Freedom of Information and Protection of Privacy Act, 1990, as amended*.

In addition, portions of the *Criminal Code of Canada* also govern the conduct of members.

3.0 Application

This *Code of Conduct* applies to all members of Council and members of local boards as defined in the *Municipal Act, 2001, as amended*.

For the purposes of the *Code of Conduct* under Section 223.1 of the *Municipal Act, 2001* a "local board" is defined:

"local board" means a local board other than,

- a society as defined in subsection 3 (l) of the *Child and Family Services Act, 2017*,
- a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*,
- a committee of management established under the *Long-Term Care Homes Act, 2007*,
- a police services board established under the *Police Services Act*,
- a board as defined in section 1 of the *Public Libraries Act*,
- a corporation established in accordance with section 203,
- such other local boards as may be prescribed;

4.0 Gifts and Benefits

Members are expected to represent the public and the interests of the municipality and to do so with both impartiality and objectivity. The acceptance of a gift, benefit or hospitality can imply favouritism, bias or influence on the part of the member. At times, the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of an elected official and their role in representing the municipality.

Members shall not accept gifts that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved. For these purposes, a gift, benefit or hospitality provided with the member's knowledge to a member's spouse, child, or parent that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member.

To enhance transparency and accountability with respect to gifts, benefits and hospitality, members will file an annual disclosure statement. Members are required to disclose all gifts, benefits, hospitality and sponsored travel received which individually exceed \$100 from one source in a calendar year.

The disclosure statement must indicate:

- The nature of the gift, benefit or hospitality;
- Its source and date of receipt;
- The circumstances under which it was given or received;
- Its estimated value;
- What the recipient intends to do with the gift; and
- Whether the gift will at any point will be left with the municipality.

The following are recognized as exceptions:

- compensation authorized by law;
- such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- a political contribution otherwise reported by law, in the case of members running for office;
- services provided without compensation by persons volunteering their time;
- a suitable memento of a function honoring the member;
- 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;
- food and beverages consumed at banquets, receptions or similar events, if:
- attendance serves a legitimate business purpose;
- the person extending the invitation or a representative of the organization is in attendance; and
- the value is reasonable and the invitations infrequent.

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner 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 Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

5.0 Confidential Information

Confidential information includes information in the possession of, or received in confidence by the Municipality that the Municipality is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as "MFIPPA") or other legislation. Generally, the *Municipal Freedom of Information and Protection of Privacy Act* restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *Municipal Act, 2001, as amended* allows information that concerns personal, labour relations, litigation, property acquisitions, the security of the property of the Municipality or a local board, and matters authorized in other legislation, to remain confidential. For great certainty, see Section 239 of the *Municipal Act, 2001, as amended* for specific classes of information subject to closed meetings. For the purposes of the *Code of Conduct*, "confidential information" also includes this type of information.

No member shall disclose or release by any means to any member of the public, any

confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

No member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of Municipal property or assets.

Under section 239 (2) of the *Municipal Act, 2001, as amended*, a matter that has been discussed at a closed meeting remains confidential. No member shall disclose the content of any such matter, or the substance of deliberations of the closed meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

Members should not access or attempt to gain access to confidential information in the custody of the Municipality unless it is necessary for the performance of their duties and not prohibited by Council policy.

6.0 Access and Privacy (MFIPPA)

MFIPPA establishes a general right of access to records held by an organization. The guiding principles of MFIPPA include:

- The public has the right to information held by the Municipality of Centre Hastings;
- Any member of the public can submit a request for information held by the Municipality of Centre Hastings;
- Individuals have a right of protection of personal information held by the Municipality of Centre Hastings; and
- Decisions to refuse information are reviewed independently by the Information and Privacy Commissioner of Ontario.

Personal information held by the Municipality of Centre Hastings must be protected from unauthorized collection, use, disclosure and eventual disposal. The Municipality of Centre Hastings cannot collect personal information about an individual unless it is authorized to do so.

7.0 Freedom of Information (FOI) Requests

FOI requests are processed by the Clerk. All information must be collected and delivered within the prescribed timelines. All requests are kept confidential, including the name of the requestor. Every attempt is made to respond to FOI requests within the legislated 30 day timeline, however, incremental 30 day extensions can be sought if the request is too complex or there are other factors that delay its delivery.

8.0 Individual Customer, Ratepayer, and Employee Information

Members are not provided access to information that is protected under MFIPPA, PHIPA, or other relevant privacy legislation. FOI and MFIPPA requests can be made by any member of the public, including council and staff members.

9.0 Use of Municipal Property, Services and Other Resources

No member shall use, or permit the use of Municipal land, facilities, equipment, supplies, services, staff or other resources (for example, Municipally-owned materials, websites, and transportation delivery services for activities other than the business of the Corporation. Nor should any member obtain personal financial gain from the use or sale of Municipally-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the Municipality.

10.0 Election Campaign Work

Members are required to follow the provisions of the *Municipal Elections Act, 1996*. No member shall use the facilities, equipment, supplies, services or other resources of the Municipality (including Councillor newsletters and websites linked through the Municipal website) for any election campaign or campaign-related activities. No member shall

undertake campaign-related activities on Municipal property during regular working hours unless permitted by Municipal policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes during hours in which those persons receive any compensation from the Municipality.

11.0 Improper Use of Influence

No member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter:

- that is of general application;
- that affects a member of Council, his or her parents, children or spouse, friends, or associates, business or otherwise, as one of a broad class of persons; or
- that concerns the remuneration or benefits of a member of Council.

12.0 Business Relations

No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Municipality except in compliance with the terms of the *Municipal Conflict of Interest Act*.

A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

13.0 Conduct Regarding Current and Prospective Employment

No member shall 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 Municipality.

14.0 Conduct at Council and Committee Meetings

Members shall conduct themselves with decorum at Council and committee meetings in accordance with the provisions of Procedural Policy (COU-001)

15.0 Conduct Respecting Staff

Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual member or group of members.

Members shall act within the provisions of the Council Staff Relations Policy (COU-006)

16.0 Discreditable Conduct

All members have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that the work environment is free from discrimination and harassment. The *Ontario Human Rights Code* applies and if applicable, the Municipality's *Violence and Harassment Policy*.

17.0 Failure to Adhere to Council Policies and Procedures

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members are required to observe the terms of all policies and procedures established by Council.

This provision does not prevent a member of Council from requesting that Council grant an exemption from a policy.

18.0 Reprisals and Obstruction

Members should respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

19.0 Acting on Advice of Integrity Commissioner

Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner.

20.0 Compliance with the Code of Conduct

Members are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict under the *Municipal Conflict of Interest Act*.

In addition, subsections 223.4(5) and 223.4(6) of the *Municipal Act, 2001*, authorize Council to impose either of two penalties on a member of Council or of a local board following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Conduct*:

- A reprimand; or
- Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

21.0 Other Actions

The Integrity Commissioner may also recommend that Council or a local board take the following actions:

- Removal from membership of a Committee or local board.
- Removal as Chair of a Committee or local board.
- Repayment or reimbursement of moneys received.
- Return of property or reimbursement of its value.
- A request for an apology to Council, the complainant, or both.

22.0 Policy Review

The Code of Conduct Policy (COU-004) shall undergo a review each term of Council.