



City of Guelph
Code of Conduct for Council and Local Boards

Tab	CITY COUNCIL
Authority	S. 223.2(1), <i>Municipal Act</i>
Subject	CODE OF CONDUCT FOR COUNCIL & LOCAL BOARDS
Related Policies	Accountability and Transparency
Approved by	COUNCIL February 25, 2013
Review Date	Annually

POLICY STATEMENT A written Code of Conduct for Council and Local Boards (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*), share a common basis for acceptable conduct. This code is designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate. These standards should serve to enhance public confidence that Guelph’s elected and appointed representatives operate from a base of integrity, justice and courtesy. The key principles that underline the Code of Conduct are as follows:

- all members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- members should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both real and apparent;
- members are expected to perform their duties in office in a manner that promotes public confidence and will bear close public scrutiny;
- members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and the City Council.

PURPOSE Municipal Council Members hold positions of privilege. Therefore, they must discharge their duties in a manner that recognizes a fundamental commitment to the well being of the community and regard for the integrity of the Corporation. The purpose of the Code of Conduct is to:

- Protect the public interest.

- Encourage high ethical standards among members of Guelph City Council and local boards.
- Provide a universal understanding of the fundamental rights, privileges, and obligations of members of Guelph City Council and local boards.
- Provide a means for members of Guelph City Council and local boards to obtain information on some contemplated conduct in circumstances where they are uncertain as to the ethical appropriateness of that conduct.

DEFINITIONS

Members - include the Mayor and Members of Guelph City Council and members of all Guelph local boards as defined in Section 223.1 of the *Municipal Act*.

Confidential Information – includes the following:

1. Any information in the possession of, or received in confidence by the City, that the city is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal freedom of Information and Protection of Privacy Act*, or any other law.
2. Information of a corporate, commercial, scientific or technical nature received in confidence from third parties: personal information, information that is subject to solicitor-client privilege; information that concerns any confidential matters pertaining to personnel labour relations, litigation, property acquisition, the security of the property of the municipality or a local board; any other information lawfully determined by the Council or the local board to be confidential, or required to remain or be kept confidential by legislation or order.
3. A matter, the substance of a matter, and information pertaining to a matter, that has been debated or discussed at a meeting closed to the public, unless the matter is subsequently discussed in open Council or it is authorized to be released by Council/the local board or otherwise by law.
4. Reports of consultants, draft documents and internal communications, which, if disclosed may prejudice the reputation of the City, its officers and employees, or its effective operation.
5. Information concerning litigation, negotiation or personnel matters.
6. Information, the publication of which may infringe on the rights of any person (e.g., source of a complaint where the identity of a complaint is given in confidence).

Integrity Commissioner – The person appointed by City Council By-Law in accordance with Section 223.3 of the *Municipal Act, 2001* and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the application of the Code of Conduct for members of Council and Local Boards.

GIFTS AND BENEFITS

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his / her duties of office, 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:
 - I. attendance is in keeping with his or her representative role;
 - II. the person extending the invitation or a representative of the organization is in attendance; and,
 - III. the value is reasonable and attendance at events sponsored by the same entity is 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 \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the City Clerk.

The disclosure statement must indicate:

- the nature of the gift or benefit;
- 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 any gift will at any point be left with the City.

Any disclosure statements will be a matter of public record.

Except in the case of category (f), a member may not accept a gift or benefit worth in excess of \$500 or gifts or benefits from one source during a calendar year worth in excess of \$500. No member shall seek or obtain by reason of his / her office any personal privilege or advantage with respect to City services not otherwise available to the general public and not consequent to his or her official duties.

CONFIDENTIALITY No Member shall disclose, release or publish by any means to any person or to the public any Confidential Information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so. No Member shall use Confidential Information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body.

USE OF CITY PROPERTY No member shall for personal purposes or profit, permit the use of any City property, equipment, services, or supplies other than for purposes connected with the discharge of City duties or associated community activities of which City Council has been advised, unless such use is permitted by one of the following exceptions:

- Reasonable and incidental personal use of equipment such as computers, fax machines, cell phones, blackberries, etc., where the City incurs no additional costs relating to such use, and the use is of limited duration and frequency.
- Use of City property and facilities where such use is universally known to be available to other residents upon request and on equal terms.

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

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.

WORK OF A
POLITICAL OR
PERSONAL NATURE

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 City (including Councillor newsletters and websites linked through the City's website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities in any City facility for the purpose of seeking the support of City employees working in that facility. No member shall use the services of persons for his or her election campaign purposes during the working hours for which those persons receive compensation from the City.

No member shall use City facilities, services or property for his or her personal or business use. No member shall use the services of persons for his or her personal or personal business use during the working hours for which those persons receive compensation from the City.

CONDUCT
RESPECTING
CURRENT AND
PROSPECTIVE
EMPLOYMENT

No member shall allow the prospect of his / her future employment by a person or entity to detrimentally affect the performance of his / her duties to the City.

BUSINESS
RELATIONS

No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the City. A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

CONDUCT

As a representative of the City, every Member has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. A member shall not use indecent, abusive, or insulting words or expressions toward any other Member any member of staff or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race ancestry, place of origin, creed, gender , sexual orientation, age colour, marital status or disability.

INFLUENCE ON
STAFF

Only Council as a whole has the authority to approve budget, policy, committee processes and other such matters. Members shall be respectful of the fact that staff work for the City 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. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the City.

Council directs the business of the City and passes by-laws, or resolutions as appropriate, for decisions adopted by Council. Council has delegated responsibility to the Chief Administrative Officer (CAO) for the administration of the affairs of the City in accordance with decisions adopted by Council. This means that under the direction of the CAO, staff have the responsibility and the authority to provide consultation, advice and direction to Council and to implement Council approved policy. Accordingly, staff establish the appropriate administrative policies, systems, structures and internal controls to implement the goals and objectives of Council, and 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. No member shall compel any staff member to engage in activities that are contrary to the directions of Council or the policies of the municipality.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

**IMPROPER USE OF
INFLUENCE**

No member of Council 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 immediate relatives, staff members, 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 / her immediate relatives, staff members, 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.

Members should not advocate on behalf of any person at a hearing of an adjudicative board (as listed on the City's website) and should not contact any member of such a board regarding any application before it.

COMPLAINTS
ALLEGING
VIOLATION OF
THIS CODE

Where a member of Council or local board, an employee of the City or a member of the public has reasonable grounds to believe that a Member has breached this code, a complaint may be submitted to the Clerks Department in prescribed form which will be forwarded to the City Integrity Commissioner who will process it in accordance with the Complaint Protocol attached hereto as Appendix "1".

Amended: March 2015

Appendix "1"
Complaint Protocol for
**Code of Conduct for Council
and Local Boards**

Application

1. This process applies to members of Guelph City Council and its local boards as defined in Section 223.1 of the *Municipal Act*. ("Members")

Integrity Commissioner

The City of Guelph Integrity Commissioner shall be responsible for the provision of services as established by Council which will include the following:

1. To provide written and oral advice to Members, City staff and members of the public concerning the interpretation of and compliance with, the Code of Conduct Council for Council and Local Boards governing the ethical behaviour of Members.(the "Code")
2. To provide Council and its local boards, with specific and general opinions and advice on the interpretation of the Code, including revisions thereto.
3. To conduct enquiries into a request made by Council, a local board, a Member, a member of City staff or a member of the public into whether a Member has contravened any applicable provision of the Code.
4. To attempt to settle any complaint between the complainant and the Member before commencing an enquiry.

Procedure for Making a Complaint

1. All complaints or requests for inquiries shall be submitted to the Clerks Department and sworn before a commissioner of oaths in the form provided in Appendix "A" and the Clerk shall forthwith forward them to the Integrity Commissioner.
2. All complaints or requests for inquiries must clearly state:
 - a. the Member to whom the complaint relates;
 - b. the nature of the alleged contravention;
 - c. the specific provision(s) of the Code allegedly contravened;
 - d. names of any witnesses to the alleged contravention; and
 - e. written material in support of the alleged contravention.
3. Upon receipt of a complaint or request for enquiry, the Integrity Commissioner shall first determine if it is within his/her jurisdiction and whether there is a procedure under other legislation or City policy to deal with the complaint. If it is determined that other procedures apply, the Integrity Commissioner shall refer the complainant to the appropriate person or agency to follow that process. This would include such matters as:
 - a. the grievance provisions of a collective agreement;
 - b. the complaint provisions under the *Ontario Human Rights Code*;
 - c. a complaint of alleged criminal activity;
 - d. procedures in the *Municipal Act*, *the Municipal Conflict of Interest Act* or *the Municipal Elections Act*;
 - e. the complaint provisions of the *Workplace Violence Prevention Policy*; or
 - f. the complaint provisions of *the Harassment and Discrimination Policy*.

Where it has been determined that a complaint should be dealt with under one of the above processes, it will no longer be considered or dealt with by the Integrity Commissioner and the time limits within the above processes will apply accordingly.

4. Upon receipt of a complaint or request to conduct an enquiry within his/her jurisdiction, the Integrity Commissioner will deliver a preliminary information report to an open meeting of Council including the following:
 - a. The opinion of the Commissioner as to whether the enquiry is appropriate and whether it can be conducted within the law applicable to such an enquiry.
 - b. An indication as to whether it is the Commissioner's intention to conduct the enquiry under the *Public Inquiries Act*.
 - c. A preliminary indication of the members of staff and/or consultants needed to assist the Commissioner.
 - d. An estimated cost of the enquiry.
 - e. The estimated time required to complete the enquiry and prepare a final report.
 - f. Where appropriate, the Commissioner may recommend that the alleged infraction be reported to the police and that the enquiry be suspended until the police investigation is completed.
5. If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith or that there are no grounds or insufficient grounds for an enquiry, the Integrity Commissioner shall not conduct an enquiry and shall state the reasons for not doing so in the preliminary report.

Procedure for Obtaining Advice:

- i. Where a member of the public is seeking to obtain advice from the Integrity Commissioner, he/she shall submit to the City Clerk the completed form provided (Appendix B).
- ii. All advice of the Integrity Commissioner to Members, employees and the public shall be confirmed in writing. No Solicitor/Client relationship will exist in the giving of such advice.
- iii. Where the Integrity Commissioner learns of a violation through the request for advice from any Member, he or she is required to report such a violation to Council.
- iv. The Integrity Commissioner may decline to give advice if he/she determines that it will put him in conflict with his/her duty to Council as a whole.

Confidentiality

1. The Integrity Commissioner shall carry out all enquiries in a manner which will ensure that the individual to whom the complaint relates is treated fairly and all complaints shall be treated as confidential to the extent possible and in accordance with the *Municipal Act*.
2. All records of investigations shall be kept confidential and access limited to those in the City with a need to know for the purposes of conducting a full investigation.

Intake Procedures

- 1 Upon receipt of a complaint involving a Member other than the Mayor, the Clerk shall immediately advise the Mayor and Chief Administrative Officer (“CAO”).
- 2 Upon receipt of a complaint involving the Mayor, the Clerk shall immediately advise the CAO and the three longest serving members of Council authorized to act in place of the Mayor.
3. The Integrity Commissioner may attempt to settle any complaint. Except where otherwise required by the *Public Inquiries Act*, the Commissioner shall provide a copy of the complaint and supporting material to the member with a request for a written response to the allegation within ten days and provide a copy of such response to the complainant with a request for a written response also within ten days.

Investigations

After the presentation of the information report to Council, the Integrity Commissioner shall take all steps necessary to promptly investigate the complaint within his or her jurisdiction, including entering any City office for such purpose and consultation with City staff with access to all information and records described in subsections 3 and 4 of Section 223.4 of the *Municipal Act* and may retain independent professional services if required.

1. The Integrity Commissioner shall make every effort to complete an investigation within 30 days.
2. If the Integrity Commissioner requires more than 30 days to complete an investigation, the following shall be notified accordingly:
 - a. The complainant;
 - b. the individual to whom the complaint relates; and
 - c. the Mayor in the case of a complaint concerning another Member; or the three longest serving members of Council in the case of a complaint concerning the mayor.
3. A complaint involving an alleged contravention that has already been thoroughly investigated will not be re-investigated unless new evidence is presented.

Reporting the Results of an Investigation

1. The Integrity Commissioner shall report his/her findings to an open meeting of Council and where the enquiry relates to a local board the report will be submitted to both Council and the local board.
2. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
3. The Commissioner shall give a copy of the final report to the complainant and the Member whose conduct is concerned 15 days prior to the Council meeting at which it will be considered.

Actions by Council

1. In reviewing the final report, Council will determine whether it will impose any of the following penalties on a Member if the Integrity Commissioner reports that it is his/her opinion that the Member has contravened the Code:
 - a. Issue a motion of reprimand
 - b. Suspension of the remuneration paid to the Member in respect of his services as a Member for a period of up to 90 days
 - c. request the member involved to return any gift or benefit received in contravention of the Code of Conduct;
 - d. request the member involved to repay the value of the benefit;
 - e. remove the member from committee or local board appointments;
 - f. request an apology; or
 - g. withhold confidential materials/matters for a period of time.
2. All reports to Council by the Integrity Commissioner on the investigation of complaints are public documents.
3. The Integrity Commissioner shall be responsible for ensuring the above procedures are followed with respect to requests for enquiries and for conducting investigations. City Council shall be responsible for determining penalties where appropriate.

Protection from Retaliation

Any employee who files a complaint of a contravention of the Code of Conduct will not be subjected to any form of penalty or reprisal provided the complaint is made:

- in good faith; and
- in the reasonable belief of the complainant that a contravention of the Code of Conduct has occurred.

Limitation Period

The Integrity Commissioner shall not proceed with an enquiry in regard to a complaint more than 60 days after the date when the event or series of events which are the subject matter of the complaint were discovered by the complainant. An event, or series of events, is discovered on the earlier of the date upon which the complainant first knew,

- that the event(s) had occurred and by whom,
- that the event(s) may have constituted a contravention of
- the Code.

The onus of proof as to the date of discovery lies with the complainant.

Where the Integrity Commissioner decides not to proceed with an investigation of a complaint received more than 60 days after the date when the event(s) occurred, the Integrity Commissioner shall prepare and file a report to Council setting out that decision.

Complaints in Municipal Election Years

Despite any other provision of this process, any complaint received by the City Clerk 90 days prior to the date of a regular election pursuant to the *Municipal Elections Act*, 1996, S.O. 1996, shall not be referred to the Integrity Commissioner for investigation until after the election has taken place.

The 90 days referred to above, will not be included for the purposes of calculating the 60 day limitation period.

Appendix A

Complaint Form to the Integrity Commissioner

**Please note that signing a false affidavit
May expose you to prosecution under
Sections 131 and 132 or 134 of the Criminal Code,
R.S.C. 1985, c. C-46, and also to civil
liability for defamation.**

Affidavit

AFFIDAVIT OF _____ [full name]

I, _____ [full name], of the [City, Town, etc of] _____
_____ [municipality of residence] in the Province of Ontario

MAKE OATH AND SAY [or AFFIRM]:

1. I have personal knowledge of the facts as set out in this affidavit, because _____

_____ [insert reasons e.g. I work for . . . I attended the meeting at which . . . etc].

2. I have reasonable and probable grounds to believe that a member of City of Guelph Council or a local board _____
_____ [specify name of member], has contravened
section(s) _____ [specify section(s)] of the code of
conduct for Members of Council and Local Boards (the “Code of Conduct”). The particulars of which are as
follows:

[Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space, please use the attached Schedule A form and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc .and attach them to this affidavit.]

Please see the attached Schedule A ()

1. This affidavit is made for the purpose of requesting that this matter be reviewed and for no other purpose.

SWORN [or AFFIRMED] before me at the

[City, Town, etc.])

in the Province of Ontario, on)

[date])

[Signature of commissioner])
A Commissioner for taking affidavits, etc.)

[Signature]

