

# Township of Guelph/Eramosa Code of Conduct for Council Members and Members of Local Boards

## DEFINITIONS

1. In this Code:

- 1.1 “Code” means the Code of Conduct for Council Members and Members of Local Boards.
- 1.2 “Complaint” means a request about whether a Member has contravened the Code.
- 1.3 “Complainant” means the individual who makes a complaint.
- 1.4 “Family member” includes not just a child or spouse but any individual connected to a Member by blood, kinship, marriage or relationship if a reasonable person might perceive that the connection has the potential to influence the Member’s conduct or decision-making on a matter affecting the individual, whether or not the conduct or decision-making is actually affected.
- 1.5 “Friend” is any individual who shares with a Member a close bond of friendship, a feeling of affection, or a special kinship sufficient that a reasonable person would perceive that the relationship has the potential to affect the Member’s conduct on a matter affecting the individual, whether or not the conduct or decision-making is actually affected.
- 1.6 “Investigation” means an inquiry in respect of whether a Member has contravened the Code, and “investigation” and “inquiry” may be used interchangeably; “investigate” and “inquire” have corresponding meanings.
- 1.7 “Local Board” means a local board of the Municipality other than a local board excluded by section 223.1 of the *Municipal Act*<sup>1</sup>.
- 1.8 “Member” means a member of the Township of Guelph/Eramosa Council or of a local board of the Municipality, as the case may be.
- 1.9 “*Municipal Act*” means the *Municipal Act, 2001*, as amended.
- 1.10 “Municipality” means the Corporation of the Township of Guelph/Eramosa.

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<sup>1</sup> Section 223.1 of the *Municipal Act* excludes the following local boards from the accountability provisions in Part V.1 of that Act: (a) a children’s aid society, (b) a board of health, (c) a long-term care home committee of management, (d) a police services board, (e) a public library board, (f) a corporation established by a municipality under section 203 of the Act, and (g) any other local board as prescribed by regulation under the Act.

- 1.11 "Respondent" means a Member who is the subject of a complaint.

## **RULES**

### **2. Appropriate Use of Office**

- 2.1 In this section and in section 4, "private interest" includes both a pecuniary (financial) and a non-pecuniary (non-financial) interest. It does not, however, include an interest in a decision or matter (a) that is of general application, (b) that affects a Member, family member or friend as one of a broad class of persons, or (c) that concerns the compensation of a Member.
- 2.2 Quite apart from the *Municipal Conflict of Interest Act* (which deals with pecuniary interests in particular situations) a Member must not use the office of Member, nor use the influence of office, to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity.
- 2.3 A Member must not attempt to influence the decision of another individual or entity (whether that individual or entity is part of the Municipality or is a third party) to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity.
- 2.4 No Member shall make a decision or exercise an official power, duty or function if the Member knows or reasonably should know that, the making of the decision or the exercise of the power, duty or function would create an opportunity to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity, whether or not the private interest is actually advanced.
- 2.5 A Member shall not give preferential treatment to any individual or entity if a reasonable person would perceive (a) that the preferential treatment was for the purpose of advancing a private interest or (b) that the preferential treatment was based on the identity of the individual or entity or the identity of a representative of the individual or entity.
- 2.6 This section does not prohibit a Member from properly using influence on behalf of a constituent.

### **3. Interference**

- 3.1 A Member shall not attempt to influence or to interfere, either directly or indirectly, with an employee, officer or other individual exercising functions under the *Provincial Offences Act*.

3.2 A Member shall not use or attempt to use office or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in the staff member's duties.

#### 4. Property and Resources of the Municipality or Local Board

4.1 No Member shall use or permit the use of an asset or resource of the Municipality or local board for any purpose other than the discharge of the duties of office or a proper purpose of the Municipality or local board.

4.2 In this section, an asset or resource of the Municipality or local board includes land, buildings, facilities, budgets, equipment, vehicles, supplies, services, employee time, Internet usage, cell phone usage, data usage, Websites, materials owned by the Municipality or local boards and any other asset or resource.

4.3 For greater certainty, no Member shall use any asset or resource of the Municipality or local board for any election-related activity or purpose. This prohibition extends to municipal, provincial and federal election-related activity, whether or not the Member is a candidate or otherwise involved. This prohibition extends to activity that promotes or opposes the municipal, provincial or federal candidacy of any individual, including activity that promotes or opposes a policy or position with which a candidate is closely associated.

#### 5. Confidential Information

5.1 By virtue of office, Members acquire confidential information, including confidential personal information, from a variety of sources.

5.2 Confidential information includes information in the possession of, or received in confidence by the Municipality, that under the *Municipal Freedom of Information and Protection of Privacy Act* the Municipality is prohibited from disclosing or releasing.

5.3 A Member shall not use information obtained in the capacity of a Member and that is not available to the general public to further or seek to further a private interest of the Member, a family member of the Member, or a friend of the Member, or improperly to advance private interest or another individual or entity.

5.4 A Member shall not disclose by any means to anyone, except to a Member or to an employee of the Municipality or local board who requires the information in the course of duties, any confidential information acquired by virtue of office, in either oral or written form, except as required by law or authorized by Council or the local board to do so.

5.5 If a matter has been discussed in a meeting or part of a meeting closed to the public in accordance with the *Municipal Act*, and the matter remains

confidential, then a Member shall not disclose the content of the matter or the substance of the deliberations of the closed meeting or part.

## 6. Gifts, Hospitality and Benefits

- 6.1 In this section, “gift, hospitality or benefit” includes any benefit or thing of value offered or provided to a Member, including but not limited to food, beverage, entertainment, ticket, event admission, travel, clothing, good, service and memento. It includes an item that is offered or given for free, as well as one offered or given at a discounted price. The definition also encompasses a situation where another individual or entity pays for or “picks up the tab,” entirely or partly, for a good, service food, beverage or other item used or consumed by the Member.
- 6.2 “Gift, hospitality or benefit” also includes a gift, hospitality or benefit offered or given to a child, parent, or spouse of the Member or to any other individual, for the benefit of the Member.
- 6.3 No Member shall receive or accept a gift, hospitality or benefit that may reasonably be seen to have been given to influence the Member in a decision or in the exercise of a power, duty or function of office.
- 6.4 No Member shall receive or accept a gift, hospitality or benefit provided indirectly or directly by an individual or entity that (a) has dealings with the Municipality or local board or (b) has the potential to be affected by a decision or the exercise of a power, duty or function of the Member or of the Municipality or local board.
- 6.5 No Member shall receive or accept any gift, hospitality or benefit from an individual or entity that is lobbying or has recently lobbied the Member. For greater certainty, the exceptions in section 6.6 do not apply to gifts, hospitality and benefits from lobbyists.
- 6.6 Despite sections 6.3 and 6.4, a Member may accept a gift, hospitality or other benefit that is,
  - (a) provided by a family member or friend;
  - (b) a trinket or memento of less than \$10 in value;
  - (c) compensation authorized by law;
  - (d) lawful political contributions;
  - (e) modest food or refreshment provided by a charity, not-for-profit organization or community group that is organizing or hosting a banquet, reception or similar event in which the Member is speaking or otherwise actively participating, or where the Member is an official representative of the Municipality or local board (for greater certainty this does not include an

event for which tickets are sold or an admission fee is charged and the Member's admission or ticket is paid entirely or partly by a third party);

- (f) a modest or token gift or hospitality that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
- (g) a service provided without compensation by an individual volunteering time;
- (h) food, lodging, transportation or entertainment provided by a provincial, regional or local governments or a political subdivision of it, by the federal government or by a foreign government within a foreign country, where the Member is speaking or attending in an official capacity;
- (i) a communication to the office of a Member, including a subscription to a newspaper or periodical; or
- (j) any other gift, hospitality or benefit, with the approval of the Integrity Commissioner if the Integrity Commissioner is of the opinion it is unlikely that receipt of the gift, hospitality 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 duties.

6.7 In the case of a gift, hospitality or benefit described in paragraph 6.6(j) (approval of the Integrity Commissioner), unless impossible, the Member shall seek advance approval from the Integrity Commissioner. Otherwise the Member shall seek approval immediately after being offered or given the gift, hospitality or benefit and shall return the gift, hospitality or benefit if the Integrity Commissioner does not give approval. Under no circumstances shall the Member seek approval from the Integrity Commissioner after a gift, hospitality or benefit has already been used or consumed.

6.8 Despite sections 6.3 and 6.4, if ceremony, protocol or other interests of the Township make it practically impossible to refuse the offer of a gift or benefit then a Member may accept the gift or benefit on behalf of the Township and immediately deliver the gift or benefit (without using or consuming it) to the Clerk who shall accept it and keep a record. The gift or benefit is Township property and shall be used, stored or disposed of accordingly.

## 7. Employment and Business

7.1 No Member shall allow himself or herself to be influenced in the making of a decision or in the exercise of an official power, duty or function by plans for, or offers of, future or outside employment, including an appointment or a contract.

7.2 No Member shall act as a paid agent before the Municipality or a local board.

7.3 No Member shall refer a third party to an individual or entity in exchange for payment or other personal benefit.

## 8. Discrimination and Harassment

8.1 No Member shall engage in discrimination against or harassment of a member of the public, an employee of the Municipality or a local board, or another Member.

8.2 No Member shall abuse, bully or intimidate another individual.

8.3 In a investigating a complaint under this section, the Integrity Commissioner shall have the authority to recommend to Council such interim measures as are necessary to protect the Complainant, to respect the rights of both Complainant and Respondent, and to ensure that integrity of the investigation.

## 9. Respectful Conduct

9.1 A Member shall act with decorum and engage in respectful conduct during all meetings of Council, committee and local boards.

9.2 No Member shall maliciously or falsely injure the professional or ethical reputation or the prospects or practice of an employee of the Municipality or a local board.

9.3 The presiding officer of a meeting is primarily responsible for ensuring that meeting participants conduct themselves respectfully and with decorum. The Integrity Commissioner shall not entertain a complaint alleging a violation of this section unless,

(a) the complaint is made by the Council or a local board in relation to conduct that allegedly occurred at a meeting of Council or the local board;

(b) the complaint is made by the Council in relation to conduct that allegedly occurred at a committee meeting following a report to the Council by the committee or its presiding officer;

(c) the complaint is made by an individual who (i) is not a Member, (ii) was present at the meeting where the conduct allegedly occurred and (iii) following the meeting formally communicated the concern to the Council, the committee or the local board, as the case may be, or satisfies the Integrity Commissioner that there was good reason not to raise the concern first with the Council, the committee or the local board.

9.4 At any time following the receipt of a complaint alleging that conduct during a meeting contravened this section, the Integrity Commissioner may refer the matter back to the Council, the committee or the local board.

## **ENFORCEMENT**

10.A complaint alleging a breach of this Code should be filed with the Integrity Commissioner in accordance with the Complaint Protocol that forms part of this Code.

### 11. Timing of Complaint

11.1 No complaint shall be filed more than three months after the act or omission giving rise to the complaint.

11.2 In the year of a regular election (2022, 2026, 2030, 2034, etc.), no complaint shall be filed between the fourth Friday of July and the fourth Monday in October, inclusive.

### 12. Timing of Investigation, Report and Consideration

12.1 In the year of a regular election:

(a) An investigation by the Integrity Commissioner that has not been completed by the fourth Friday of July shall be terminated on that day.

(b) Between the fourth Friday of July and the fourth Monday in October, inclusive, the Integrity Commissioner shall not report to the Municipality or a local board about whether a Member has contravened the Code.

(c) Between the fourth Friday of July and the fourth Monday in October, inclusive, neither Council nor a local board shall consider whether to impose a penalty on a Member for contravention of the Code.

12.2 If an investigation has been terminated under paragraph 12.1(a) then the Integrity Commissioner shall not commence another investigation in respect of the matter unless, within six weeks after voting day, either the Complainant or the Respondent makes a written request to the Integrity Commissioner that the investigation be commenced.

### 13. Penalty

13.1 Upon receipt of a report that a Member has contravened the Code, the Council or the local board may impose either of the following penalties on a Member:

(a) A reprimand.

(b) Suspension of the remuneration paid to the Member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

#### 14. Reprisals and Obstruction

- 14.1 Each Member shall respect the integrity of the Code of Conduct and investigations conducted under it.
- 14.2 No Member shall engage in any reprisal or make a threat of reprisal against a Complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited.
- 14.3 No Member shall obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner's responsibilities.

#### Written Advice

- 14.4 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.