



**CODE OF CONDUCT  
for  
MEMBERS OF COUNCIL ADVISORY  
COMMITTEES AND LOCAL  
BOARDS**

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MUNICIPALITY OF NORTH MIDDLESEX

<b>SUBJECT: CODE OF CONDUCT MEMBERS OF COUNCIL</b>	<b>SECTION: GOVERNANCE</b>
<b>POLICY NO: 2016</b>	<b>DATE APPROVED BY COUNCIL: April 20, 2016</b>
	<b>DATE REVIEWED:</b>

## INTRODUCTION

A written Code of Conduct helps to ensure that the members of Council, advisory committees and local boards of the municipality, as defined in the Sections 223.2(1) and (5) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, share a common understanding of acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate. Such standards should serve to enhance public confidence that North Middlesex's elected and appointed representatives operate from a foundation of courtesy, integrity and justice; avoiding the improper use/influence of their office and conflicts of interest, be they real or perceived. This builds support for local government and the political process.

Four pieces of Provincial legislation governs the conduct of elected officials including:

1. The *Municipal Act, 2001*, as amended, and the Council Procedural By-law passed under section 238 of this Act;
2. The *Municipal Conflict of Interest Act*, as amended;
3. The *Municipal Elections Act, 1996*, as amended; and,
4. The *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of members of Council.

A member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* of Canada or being found to have failed to comply with the *Municipal Conflict of Interest Act* whether or not the conduct in question involves contravention of this Code of Conduct.

In the case of any inconsistency between this Code and a Federal or Provincial statute or regulation, the statute or regulation shall prevail.

## PURPOSE

To identify the Municipality's expectations of its members and sets guidelines for appropriate behaviours to (a) protect the public interest; (2) encourage the highest of ethical standards among members; (c) provide an understanding of the fundamental rights, privileges and obligations; (d)

offer a procedure determining the appropriateness of conduct; and, (e) identify a means of correcting inappropriate conduct.

The following key principles provide the foundation for the Code. Members shall/are:

- Serve and have been seen to serve constituents in a conscientious and diligent manner;
- Committed to performing their functions with accountability, integrity, and honesty;
- Make decisions that are made in open, transparent and equitable through the proper processes;
- Show respect and fairness for differences of opinion;
- Work together for the common good of the community and its residents;
- Demonstrate an understanding of the fundamental rights, privileges and obligations of their elected position;
- Perform their duties to promote public confidence and bear close public scrutiny; and,
- Set out the means of correcting unethical conduct.

The Code of Conduct is meant to identify the standards to:

- Ensure equitable treatment of citizens and employees;
- Communicate corporate and community priorities;
- Ensure compliance with statutory requirements;
- Minimize liability risks;
- Ensure accountability by elected officials;
- Ensure optimal use of available resources;
- Implement strategic or operational plans; and,
- Set parameters on governance and operational matters.

The Municipality of North Middlesex's Council Code of Conduct is a general standard that augments the Provincial laws and municipal by-law and policies that govern conduct. It is not intended to replace personal ethics which may be of a higher standard. This Code of Conduct is consistent with the existing statutes governing the conduct of members.

## **POLICY**

### **1. PRINCIPLES**

Improving the quality of municipal administration and governance can best be achieved by encouraging high standards of conduct on the part of all municipal 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's reputation and integrity.

Key statements of principle that underline this Code of Conduct are as follows:

- Members of Council must serve and be seen to serve their constituents in a conscientious and diligent manner;
- Members of Council must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of Council are expected to perform their duties in office and arrange their

private affairs, in a manner that promotes public confidence and will bear close public scrutiny;

- Members of Council must recognize and act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable to members of the public as possible; and
- Members of Council shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the laws and policies adopted by the municipal council.

## **2. APPLICATION OF THIS CODE**

This Code of Conduct applies to every member of the Council, Advisory Committee or Local Board.

## **3. DEFINITIONS**

In this Code of Conduct:

"Child" means a child born within or outside marriage and includes an adopted child and a person whom a member has demonstrated a settled intention to treat as a child of his or her family;

"Confidential Information" includes any information that is of a personal nature to Municipal employees or customers or vendors or information in the custody or under the control of the Municipality that is not available to the public and that, if disclosed, could result in loss or damage to the Municipality or could give an advantage to the person to whom it is disclosed.

"Council" means the Council of the Municipality of North Middlesex;

"Information" includes a record or document;

"Immediate Relative" shall be defined as a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law as well as step-relationships.

"Member" means a member of the Council, unless the context otherwise requires;

"Municipal Resource" includes but is not limited to Municipality of North Middlesex owned equipment, supplies, services, tools, property (both physical and intellectual), systems, software systems, website, domain name, logo, handheld mobile devices, cell phone, phone, address, voice-mail, e-mail, social media, facility and staff while undertaking duties on behalf of the Municipality.

"Parent" means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;

"Person" includes a corporation, partnership, association and any other entity, as the context allows; and

"Spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage.

## **4. ROLES AND RESPONSIBILITIES**

### **a. Compliance with Declaration of Office**

Every member shall act in accordance with his or her declaration of office.

### **b. Adherence to Council Policies and Procedures**

Every member of Council shall observe and comply with every provision of this Code of Conduct, as well as all other policies and procedures adopted or established by Council affecting the Councillor, whether or not acting in his or her capacity as a member of Council.

Members must recognize their responsibility to:

- Represent the diversity of community views in a fair and equitable manner, while developing an overall strategy for the future of the Municipality;
- Perform their duties in an impartial manner;
- Endeavour to demonstrate sound financial management, planning and accountability; and,
- Be aware of and understand statutory obligations imposed upon individual members and Council as a statutory body regarding, but not limited to conflict of interest and confidentiality.
- And ensures that the municipality follow the Health and Safety Act

## **5. CONDUCT AT MEETINGS**

Every member shall conduct himself or herself properly and in a civil manner at Council, committee and other meetings, and in accordance with the provisions of the Procedure Bylaw, this Code of Conduct, and other applicable law.

## **6. CONDUCT RESPECTING OTHERS**

Every member of Council 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, and place of origin, creed, gender, sexual orientation, age, colour, marital status, religious affiliations or disability.

## **7. CONDUCT RESPECTING STAFF**

Under the direction of the senior municipal administration, and in accordance with the decisions of Council, municipal staff is required to serve the municipal corporation as a whole. Every member shall be respectful of the role of staff to provide advice based on political neutrality and objectivity

and without undue influence from any member or faction of the Council. Accordingly, no member shall maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff. Every member shall show respect for staff, and for their professional capacities and responsibilities.

A council member shall not compel any member of staff to engage in partisan political activities, or subject any member of staff to threat or discrimination for refusing to engage in any such activity. A member shall not use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that person's duties, including the duty to disclose improper activity.

## **8. GIFTS AND BENEFITS**

For the purposes of this Code, a gift or benefit provided, with the member's knowledge, to a member's spouse, child or parent, or to his or her staff, that is connected directly or indirectly to the performance of the member's duties, is deemed to be a gift or benefit to that member.

A member shall not accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted under one or more of the exceptions listed below,

Each of the following is recognized as an exception:

- a. compensation authorized by law;
- b. a gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
- c. a political contribution otherwise authorized and reported as required by law, in the case of a member running for office;
- d. services provided without compensation by a person volunteering his or her time;
- e. a suitable memento of a function honouring the member;
- f. food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or event where the member is speaking or attending in an official capacity;
- g. food and beverages consumed at a banquet, reception or similar event, if:
  - attendance by the member is for a legitimate municipal purpose;
  - the person extending the invitation, or a representative of the organization holding the event, is in attendance; and
  - the value is reasonable;
- h. communications to the office of a member, including subscriptions to newspapers and periodicals; and
- i. a sponsorship or donation for a community event organized or run by a member, or a third party on behalf of a member, subject to the limitations set out in any applicable municipal policy.

Except for exception (c) (political contributions allowable by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer. In this provision, a lobbyist is an individual, organization or business who or that:

- lobbies, or causes the lobbying of, any public office holder of the municipality, the municipal council or corporation, or a local board;
- the member knows is attempting or intending to lobby the member or any of the public persons or bodies listed in paragraph (a); or
- is maintaining an active lobbyist registration with the municipality, whether or not with respect to any specific or current subject-matter.

In the case of any of the recognized exceptions (b), (e), (f), (h) and (i), if the value of the gift or benefit exceeds \$250.00, or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$250.00, the member shall file, within 30 days of receipt of the gift or benefit, or of reaching the annual limit, a disclosure statement with the Municipal Treasurer

The disclosure statement must set out:

- a. the nature of every gift or benefit received;
- b. its source and date of receipt;
- c. the circumstances under which it was given and received;
- d. its estimated value;
- e. what the recipient intends to do with any gift; and
- f. whether any gift will at some point be provided to the municipality.

Every disclosure statement filed under this Code shall be made a public record.

Upon receiving a disclosure statement, the Treasurer shall examine it to ascertain whether the receipt of the gift or benefit might, in his or her opinion, constitute a contravention of this Code or create a conflict between a private interest and the public duty or responsibilities of the member. In the event that the Treasurer makes such a determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Treasurer determine that receipt of any gift or benefit was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit the value of any gift or benefit already consumed, to the municipality.

Except in the case of exceptions (a), (c), (f) and (i). no member shall accept a gift or benefit worth in excess of **\$250.00**, or gifts or benefits from one source during a calendar year which together are worth in excess of **\$250.00**.

## **9. BUSINESS RELATIONS**

A member shall not borrow money from any person who regularly does business with the Municipality unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

A member shall not act as a paid agent before Council or a committee of Council or any agency, board or committee of the Municipality.

## **10. COMMUNICATIONS**

Members shall show respect for the decision-making process of Council. Information concerning adopting policies, procedures and decisions of Council shall be conveyed openly and accurately even if members disagree with the decision of Council.

Confidential information may only be communicated when and upon a determination by Council.

Members shall not use his/her office to promote or sponsor commercial products or events other than Municipality-sponsored products or events.

Members who receive a call, e-mail or in-person inquiry from a resident that lives within another members' ward shall direct the inquirer to the appropriate ward member. A courteous e-mail or phone call, outlining the nature of the matter, will also be sent/made to that appropriate ward member and applicable staff member, that the inquirer was referred. This is intended to ensure that open communication is maintained at all times between members and staff throughout the entire municipal organization while respecting the ward boundaries. It also confirms information being provided remains consistent between all members and staff.

## **11. CONFIDENTIAL INFORMATION**

In this Code, "confidential information" includes any information in the possession of, or received in confidence by, the municipality that the municipality 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. "Confidential information" also includes 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; and any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order.

A member shall not 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.

A member shall not 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.

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, shall be maintained as confidential, unless authorized by the Council or legislation to be released, generally or subject to conditions, and such are complied with. No information pertaining to such a matter, the manner in which it was dealt with at the meeting, or any part or description of the debate, shall be disclosed unless authorized by the Council or otherwise by law.

A member may disclose the content of any matter referred to in the preceding paragraph or the subject-matter of deliberations, at an in camera meeting, only after the Council or committee lawfully and knowingly discusses the information at a meeting that is open to the public or releases the information to the public.

Without limiting the generality of the foregoing, no member shall, without lawful authority, disclose, or make personal use of, any of the following types of confidential information:

- information concerning litigation, negotiation or personnel matters;
- information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence);
- price schedules in any contract, tender or proposal document while such remains a confidential document;
- information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*; and
- any other information or statistical data required by law not to be released.

A member of Council shall not obtain access, or attempt to gain access, to confidential information in the custody of the municipality except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by Council or otherwise by law.

## **12. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES**

A member of Council shall not use, or permit the use of, municipal land, facilities, equipment, supplies, services, staff or other resource, including any municipally-owned information, website, Council transportation delivery service or funds allocated for member of Council expenses, for any purpose or activity other than the lawful business of the municipal corporation. No member shall seek or acquire any personal financial gain from the use or sale of confidential information, or of any municipally-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copyrighted, of which property remains exclusively that of the municipality.

## **13. CONDUCT OF ELECTION CAMPAIGN**

Every member shall comply with all applicable requirements of the *Municipal Elections Act, 1996*. A member shall not use confidential information, facilities, equipment, supplies, services or other resources of the municipality, including any Councillor newsletter or website linked through the municipality's website, for any election campaign or campaign-related activity. A member shall not undertake campaign-related activities on municipal property during regular staff working hours unless authorized by the municipality. A member shall not use the services of any person for election-related purposes during hours in which that person receives any compensation from the municipality.

## **14. NO IMPROPER USE OF INFLUENCE**

A member of Council shall not use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes.

A member of Council shall not use his or her office or position to influence or attempt to influence the decision of any other person, for the member's private advantage or that of the member's parent, child, spouse, staff member, friend or associate, business or otherwise. A member shall not attempt to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. A member shall not hold out the

prospect or promise of future advantage through the member's supposed influence within Council, in return for any action or inaction.

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

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

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

## **15. PROTOCOL FOR COMPLAINT PROCESS**

Members, Municipal employees or members of the public, who have reasonable grounds to believe that a Member is not in compliance with the Code of Conduct, May proceed through the complaint process.

- a. Informal – requires the complainant to advise the Member that his/her behaviour or activity does not comply with the Code and requests that the prohibited behavior discontinue. A written record of the incident including the date, time, location, other persons present and any other relevant information should be kept. If applicable, advise the member regarding the complainant's satisfaction/dissatisfaction with the response and consider the need to pursue the matter further through the formal complaint procedure or in accordance with an applicable judicial process.
- b. Formal – requires that a complaint must be made in writing setting out the grounds for the belief that there is an alleged contravention. Each complaint shall include a supporting affidavit that sets out the evidence in support of the complaint. The complaint shall be filed through the Clerk or designate who is a Commissioner for taking affidavits.

The *Municipal Act, 2001*, as amended, requires, where a Council adopts a Code of Conduct, for a municipality to appoint an Integrity commissioner to receive and assess alleged breaches of the Code of Conduct and where deemed appropriate, conduct an investigation of the alleged breach. The Integrity Commissioner is a Statutory Officer under the Act under contract to the Municipality or in absence of a municipally-contracted Integrity Commissioner the Provincial Ombudsman will have a direct report function to Council. It is their duty to ensure an unbiased, fair and appropriate process be undertaken to consider complaints regarding the Code of Conduct and to recommend a decision.

## **16. NON-COMPLIANCE WITH THIS CODE OF CONDUCT SANCTIONS**

A member found by Council to have contravened any provision of this Code, is subject to one or more of the following consequences imposed by Council, as referred to in the following two paragraphs:

Section 223.4 (5) of the *Municipal Act, 2001* authorizes the Council, where there has been a violation of the Code of Conduct, to impose upon the offending member of Council the following sanctions:

- 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 a local board, as the case may be, for a period of up to 90 days.

Council is willing to go beyond requirements in the *Municipal Act, 2001*, as amended to add the following:

- a. removal from membership on a committee or local board;
- b. removal as chair of a committee or local board;
- c. repayment or reimbursement of monies received;
- d. return of property or reimbursement of its value;
- e. request an apology to Council the complainant, or both; or,
- f. any other or additional action deemed by Council to be appropriate, and which is within its power to take.

## **17. NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE**

Every member of Council must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it, and shall co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat of reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective.

## **18. STATUTES REGULATING THE CONDUCT OF COUNCILLORS**

In addition to this Code of Conduct, the following Ontario legislation also governs the conduct of members of Council:

- the *Municipal Act, 2001*, as amended;
- the *Municipal Conflict of Interest Act*;
- the *Municipal Elections Act, 1996*; and
- the *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of members of Council.

A member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* of Canada or being found to have failed to comply with the *Municipal Conflict of Interest Act*. whether or not the conduct in question involves contravention of this Code of Conduct.

In the case of any inconsistency between this Code and a Federal or Provincial statute or regulation, the statute or regulation shall prevail.

## **19. IMPLEMENTATION**

Members seeking clarification of any part of this Policy should consult with the Chief Administrative Officer.

At the beginning of each term of Council, the Clerk shall:

- a. Provide each member with a copy of the Code of Conduct;
- b. Provide each member with a copy of the Municipal Conflict of Interest Act or related guidelines;
- c. Undertake a review of the Code as part of the Council orientation process; and,
- d. Have each member sign an "Acknowledgement of Code" form indicating that the Code has been read and understood.

Members are expected to formally and informally review the Code on a regular basis, as-needed or when so requested by Council.

## **20. POLICY REVIEW**

This policy shall be reviewed at least once during each term of Council.