

THE CORPORATION OF THE COUNTY OF LAMBTON

BY-LAW NO. 7 OF 2019

**"A By-Law to Establish a
Code of Conduct for Members of Council of The
Corporation of the County of Lambton"**

WHEREAS The Corporation of the County of Lambton adopted By-Law No. 21 of 2015 on May 6th, 2015 establishing a code of conduct for members of its elected council and its local boards ("Original By-Law") pursuant to its authority under section 223.2(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended;

AND WHEREAS the *Modernizing Ontario's Municipal Legislation Act, 2001* amended the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 regulating municipal and prescribing minimum content for codes of conduct for members of council and local boards ("Bill 68 Amendments");

AND WHEREAS Council of The Corporation of the County of Lambton wishes to amend its Original By-Law to incorporate the Bill 68 Amendments and, consequently, restate its Original By-Law;

NOW THEREFORE BE IT RESOLVED THAT the Council of The County of Lambton enacts as follows:

PART 1: SHORT TITLE

1.1 This By-Law shall be known as the "Councillor Code of Conduct" for The Corporation of the County of Lambton, hereinafter ("the County").

PART 2: DEFINITIONS

2.1 "Censure" means an official expression of disapproval or condemnation.

2.2 "Clerk" shall mean an Employee authorized to act as the Clerk of the County.

- 2.3 "Closed Meeting" shall mean a meeting or part of a meeting of Council not open to the public in accordance with the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended.
- 2.4 "Committee" shall mean a Committee established by Council.
- 2.5 "Complaint" shall mean an alleged violation of this Code.
- 2.6 "Confidential Information" includes information in the possession of the County that the County is prohibited from disclosing under the *Municipal Freedom of Information and Protection of Privacy Act*, the *Personal Health Information Protection Act, 2004* and other applicable legislation. Confidential Information also means any information that is of a personal nature to County employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the County or could give the person to whom it is disclosed an advantage. Confidential Information includes items disclosed or discussed at closed sessions of Council and Committee meetings.
- 2.7 "Council" shall mean a majority of the elected officials who constitute The Corporation of the County of Lambton's municipal council.
- 2.8 "Employee" shall mean a person employed by the County, including those employed on personal service contracts and volunteers, but does not include members of Council.
- 2.9 "Gift" includes any cash or monetary equivalent fee, object of value, service, forbearance, preferential treatment or personal benefit received from a third party.
- 2.10 "Good Faith" shall mean accordance with standards of honesty, trust and sincerity as practiced and understood within the Lambton County community.
- 2.11 "Integrity Commissioner" shall mean a person appointed by Council to provide independent and consistent complaint investigation and resolution respecting the application of the Code of Conduct, and as defined by County of Lambton By-Law No. 08 of 2019 ("Integrity Commissioner By-Law").
- 2.12 "Immediate Relative" shall mean a parent, Spouse and child.

- 2.13 "Lobby" shall mean to communicate with a member outside of a public process about matters of interest or benefit to the lobbyist and their client business organization. Communication may be about a bylaw or resolution on any matter that requires a decision by Council, a local board, or delegated decision-maker and includes matters regarding policies or programs, the purchase of goods and services and the awarding of contracts, applications for a service grant, planning approval, or other licence.
- 2.14 "Media" includes any entity such as radio, television, newspaper, magazine, websites, blogs, social media, twitter feeds or other vehicles for the public dissemination of information.
- 2.15 "Member" means any member of Council, and includes the Warden and any member of the public appointed to a committee or advisory board.
- 2.16 "Meeting" shall mean any regular, special or other meeting of Council.
- 2.17 "Pecuniary Interest" shall mean an interest that has a direct or indirect financial impact or as defined under the Municipal Conflict of Interest Act, as amended.
- 2.18 "Spouse" shall mean the person to whom a Member is married or with whom the Member is living in a conjugal relationship.

PART 3: APPLICATION

- 3.1 This Code of Conduct applies to the Warden, the Deputy Warden and all Members and members of the public appointed to committees and advisory boards.

PART 4: PURPOSE

4.1 This Code of Conduct is meant to supplement existing legislation governing the conduct of Members, including but not limited to:

- a) *Criminal Code of Canada;*
- b) *Human Rights Code;*
- c) *Municipal Act, 2001;*
- d) *Municipal Conflict of Interest Act;*
- e) *Municipal Freedom of Information and Protection of Privacy Act;*
- f) *Municipal Elections Act, 1996;*
- g) *Personal Health Information Protection Act, 2004.*

PART 5: GENERAL DUTIES

5.1 It shall be the duty of all Members to abide by all applicable legislation, policies and procedures pertaining to their position as a Member.

5.2 Members shall at all times serve and be seen to serve their constituents in a conscientious and diligent manner.

5.3 Members will conduct their dealings with each other in ways that maintain public confidence in the position to which they have been elected or appointed. Members will be open and honest, focus on issues rather than personalities, and avoid aggressive, offensive or abusive conduct.

5.4 Members shall refrain from making disparaging remarks about other Members, members of the public or about Council's decisions.

5.5 Members shall conduct themselves at all Council and Committee meetings with decorum, in accordance with Part 15 of the County of Lambton's Procedural By-Law, being By-Law No. 33 of 2014.

5.6 In accordance with the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*, every Member shall exercise his or her power and discharge his or her official duties in accordance with the following guiding principles:

- a) Seek to advance the common good of Lambton County;
- b) Exercise care, diligence and skill that a reasonably prudent person would exercise in similar circumstances;
- c) Exercise his or her powers only for the purposes for which they were intended; and
- d) Truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability.

PART 6: CONFLICT OF INTEREST

6.1 Members shall be responsible for ensuring that they are familiar with the *Municipal Conflict of Interest Act*. If, upon review by the Integrity Commissioner, a complaint alleges a violation of s. 5, 5.1, or 5.2 of the *Municipal Conflict of Interest Act*, the Integrity Commissioner may receive the complaint and may proceed with an investigation of the complaint in accordance with ss. 223.4.1 of the *Municipal Act, 2001* as amended.

6.2 This Code does not apply to a non-pecuniary interest which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the Member.

6.3 No Member shall allow the prospect of future employment by a person or entity to detrimentally affect the performance of his or her duties as a Member.

PART 7: GIFTS AND PARTICIPATION AT EVENTS

7.1 No Member shall solicit or accept any gift or accept or receive a fee, advance, cash or personal benefit that is directly or indirectly connected with the performance of his or her duties of office. For the purposes of this provision any gift provided to a Member's child, parent or spouse with the Member's knowledge shall be deemed to be a gift accepted by that Member;

7.2 The County recognizes that moderate hospitality and participation in charitable non-profit fundraising and business events is an accepted courtesy of community participation and business relationships. Accordingly, the following types of gifts are recognized as exceptions to the prohibition in Section 7.1:

- a) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibilities of office;
- b) token gifts such as souvenirs, mementoes and commemorative gifts that are given in recognition of service on a committee for speaking at an event or representing the County at an event;
- c) food and beverages consumed at lunches dinners charity fundraisers banquets receptions ceremonies or similar events if the Member's attendance serves a legitimate municipal purpose;
- d) communications to the offices of a Member including subscriptions to newspapers and periodicals;
- e) compensation authorized by law;
- f) political contributions that are offered accepted and reported in accordance with applicable law;
- g) services provided without compensation by persons volunteering their time;
- h) gifts of admission to dinner charity fundraisers, banquets, receptions, ceremonies, cultural events, sporting events, business galas, political events and similar events if the Member's attendance serves a legitimate municipal purpose;

- i) reasonable payment for participation in or organizing any reception, dinner, gala, golf tournament, or similar event to support charitable causes or a political fundraising event and food, lodging, transportation or entertainment from a not for profit non-government organization;
- j) Within 30 days of receipt of any gift described in Section 7.2 (a), (b) or (c), Members shall file a disclosure statement with the Integrity Commissioner for any gift that exceeds \$200 in value. If the value of any gift described in Section 7.2 (g), (h) or (i) exceeds \$500 or if the total value of such gifts received from any one source during one calendar year exceeds \$1,000 the Member shall file a disclosure statement with the Integrity Commissioner within 30 days of the receipt of the gift. Every disclosure statement shall indicate:
 - i. the nature of the gift;
 - ii. its source and date of receipt;
 - iii. the circumstances under which it was received; and
 - iv. its estimated value.

7.3 Every disclosure statement shall be a matter of public record.

7.4 The Integrity Commissioner shall report to Council annually on all gifts received by Members that are disclosed in accordance with Section 7.2(j).

7.5 The Integrity Commissioner shall examine every disclosure statement filed with him or her to ascertain whether the receipt of the gift might in her or his opinion create a conflict between a private interest and the public duties of the Member.

7.6 If the Integrity Commissioner makes a preliminary determination of a conflict the Member shall be asked to justify receipt of the gift.

7.7 If the Integrity Commissioner determines that receipt of the gift was inappropriate he or she may direct the Member to return the gift, reimburse the donor for the value of any gift already consumed, forfeit the gift, or remit the value of any gift already consumed to the County.

PART 8: INTERACTION WITH THE PUBLIC, OTHER MEMBERS & COUNTY

STAFF

- 8.1 Members have a duty to treat members of the public, each other and staff with respect and dignity and without abuse, bullying or intimidation;
- 8.2 Members have a duty to ensure that the County's work environment is safe and free from discrimination and harassment;
- 8.3 Members are to recognize that Employees serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. Council directs Employees through its decisions as recorded in the minutes and resolutions of Council. The role of Employees is to provide advice and services that are based on political neutrality, objectivity and professional judgment which may not necessarily reflect the opinion or position of any single Member. Members have no individual capacity to direct Employees to perform specific functions.
- 8.4 Inquiries of Employees from Members should be directed to the Chief Administrative Officer or the appropriate General Manager.
- 8.5 No Member shall compel Employees to engage in partisan political activities or be subjected to threats, discipline or discrimination for refusing to engage in any such activity.
- 8.6 Members shall show respect for the professional capacities of County Employees. Some Employees have professional credentials (examples: professional engineer, registered nurse) which create separate legal and ethical obligations for those Employees. Members shall refrain from any conduct which may deter, interfere or unduly influence Employees in such a manner as to result in them violating their professional legal or ethical obligations.
- 8.7 Certain Employees hold positions within the administration of justice. Members shall refrain from making requests or statements or otherwise taking action which may be construed as an attempt to influence the independence of staff working within the administration of justice.

PART 9: IMPROPER USE OF INFLUENCE

- 9.1 No Member shall use his or her office to seek to influence any decision made or to be made by Council to the Member's private advantage or to the advantage of another person.
- 9.2 No Member shall use his or her office to seek to influence or interfere with the administration or enforcement of the County's regulatory By-Laws or other laws enforced by the County. Notwithstanding the foregoing, it is recognized that Members of Council may in good faith raise the concerns of residents for the purpose of determining if those concerns can be resolved having due regard for the public interest in fair and impartial By-Law enforcement.
- 9.3 All applicants for County positions shall have an equal opportunity to obtain such employment. No Member shall use his or her office to seek to inappropriately influence the hiring of specific individuals for any position within the County.
- 9.4 Nothing in this Section prohibits a Member from providing a reference for an applicant for any position within the County, or offering his or her opinions and voting on any decision to hire a Chief Administrative Officer.
- 9.5 No Member shall use the County's corporate logo or the County letterhead in any communication intended to solicit funds to support any cause or third party unless such cause or third party has been sanctioned by a vote or resolution of County Council.

PART 10: CONFIDENTIAL INFORMATION

- 10.1 Members shall hold in strict confidence all Confidential Information concerning matters dealt with in-camera. No Member shall release, make public or in any way divulge any such Confidential Information or any aspect of the in-camera deliberations unless expressly authorized by Council or required By-law.

- 10.2 No Member shall release, make public or in any way divulge any such Confidential Information acquired by virtue of his or her office unless expressly authorized by Council or required By-Law. The capacity to release Confidential Information can only be made by a majority of Council, and no individual member of Council has authority to waive this privilege.
- 10.3 No Member shall use information gained in the execution of his or her office that is not available to the general public for any purpose other than his or her official duties.
- 10.4 No Member shall access or attempt to gain access to Confidential Information in the custody of the County except to the extent necessary for the performance of his or her duties as a Member and not prohibited by this Code or any other statute, By-Law or policy.
- 10.5 Members are only entitled to Confidential Information in the possession of the County that is relevant to matters before the Council or Committee.

PART 11: COMMUNICATIONS AND MEDIA RELATIONS

- 11.1 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 a majority decision of Council, and/or voted in the minority. Members may publicly express disagreement with a decision, but are to do so in a respectful manner.
- 11.2 In communications with the media, Members shall not indicate, implicitly or explicitly, that they speak on behalf of Council, unless they have been authorized to do so by Council.
- 11.3 Members shall refrain from making disparaging remarks about other Members, members of the public, Employees or Council's process and decisions.

PART 12: MUNICIPAL ELECTION CAMPAIGNS

- 12.1 Members of Council are required to comply with the *Municipal Elections Act, 1996*.
- 12.2 No Member shall use County property, including the County's logo, for any election campaign or campaign related activities.
- 12.3 No Member shall undertake campaign related activities on County owned lands, with the exception of the permissible use of campaign signs along road allowances, and in compliance with any local sign By-Laws, as applicable.
- 12.4 No Member shall use the services of Employees in work for his or her (re)election during hours in which those Employees are being paid by the County. The participation of County staff with respect to municipal elections is generally discouraged and is governed by the Staff Code of Conduct.

PART 13: CONDUCT OF FORMER MEMBERS

- 13.1 The County shall not hire or award any contract to any former Member for a period of 12 months from the date the former Member ceased to hold office except where the former Member is the successful bidder through a quote or tender consistent with appropriate County policies.
- 13.2 A former Member may not Lobby the County or any Member for a period of 12 months from the date the former Member ceased to hold office.

PART 14: USE OF COUNTY PROPERTY

- 14.1 Members may only use County property, including land, facilities, equipment, supplies, services, staff or other resources (for example, County owned materials, computers, networks, websites) for activities directly connected with the discharge of their official County duties or, as appropriate, local municipal duties.

- 14.2 Occasional or incidental personal use of County computers, phones or similar devices and communication systems is acceptable, subject to the provisions of the *Municipal Elections Act*. Such use may also be subject to the *Municipal Freedom of Information and Protection of Privacy Act*.
- 14.3 No Member shall obtain financial gain from the use or sale of County-developed intellectual property including inventions, cultural materials, computer programs, technical innovations, or other items capable of being patented, or copyrighted, as all such property remains exclusively that of the County.

PART 15: NEPOTISM

- 15.1 No Member shall attempt to influence the hiring or promotion of a Spouse or Immediate Relative.
- 15.2 No Member shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate a Spouse or Immediate Relative.
- 15.3 If a Spouse or Immediate Relative of a Member is an applicant for employment with the County or candidate for promotion or transfer, the Spouse or Immediate Relative will proceed through the usual selection process with no special consideration.
- 15.4 No Member shall place himself or herself in a position where he or she could have influence over their Spouse or Immediate Relative's employment.
- 15.5 No Member shall attempt to use a Spouse or Immediate Relative relationship for financial or other gain.

PART 16: OBSTRUCTION

- 16.1 No Member shall obstruct the Integrity Commissioner in the carrying out of their responsibilities.
- 16.2 It is a violation of this Code to obstruct any staff member acting under the instruction of the Integrity Commissioner in applying or furthering the objectives or requirements of this Code, in attempting to gather information or data, or in the general conduct of duties with respect to a Code of Conduct investigation.
- 16.3 Examples of obstruction under sections 16.1 or 16.2 include the destruction of documents, the erasure of electronic documents, withholding or concealing the existence of documents and refusal to respond to inquiries from the Integrity Commissioner within 15 days of receipt of same.

PART 17: REPRISALS

- 17.1 No Member shall seek any reprisal or threaten any reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner in the course of inquiry pursuant to a complaint.

PART 18: PENALTY FOR NON-COMPLIANCE

- 18.1 Where, under the Integrity Commissioner By-Law, being By-Law No. 08 of 2019, the Integrity Commissioner decides that a Member has contravened this Code of Conduct, the Integrity Commissioner may recommend to County Council , under Section 11 of that By-law, to:
- a) reprimand the member of Council; or
 - b) suspend the remuneration paid to the Member in respect of the Member's services for a period of up to 90 days.

PART 19: GENERAL PROVISIONS

- 19.1 This By-Law comes into force on May 1st, 2019.
- 19.2 By-Law No. 20 of 2015 is repealed upon the coming into force of this By-Law.

PART 20: COUNCIL REVIEW

20.1 Council shall review this Councillor Code of Conduct no less than once (1) per term of Council within the first twelve (12) months of the commencement of each term.

THIS BY-LAW read a first, second and third time and finally passed this 1st day of May, 2019.

Bill Weber
Warden

Stéphane Thiffault
Clerk