Code of Conduct

Municipality of Oliver Paipoonge

Important Disclaimer: this protocol complies with the relevant provisions of the *Municipal Act, 2001*, SO 2001, c 25 (the "*Act*"). If you have any questions or concerns about this protocol or how to implement it, please contact Wishart Law Firm LLP. Wishart Law Firm LLP is not responsible for the results of any edit to this protocol other than as expressly authorized or directed by Wishart Law Firm LLP.

© 2018, Wishart Law Firm LLP

All rights reserved. No part of this work may be reproduced or copied in any form or by any means (graphic, electronic or mechanical, including photocopying, recording, taping or information and retrieval systems) without the written permission of Wishart Law Firm LLP.

A licence is, however, given by Wishart Law Firm LLP to any Municipality that has purchased a copy of this work to print, copy, save, or post on its official website for its own use only and such Municipality may not repurpose or resell the work in any way.

Contents

1. Principles Upon Which This Code is Based 1
2. Application of this Code 2
3. Definitions 2
4. Compliance with Declaration of Office 4
5. Adherence to Council Policies and Procedures 4
6. Conduct at Meetings 4
7. Conduct Respecting Others 5
8. Conduct Respecting Staff and Officers 5
9. Gifts, Benefits and Hospitality 6
10. Confidential Information 9
11. Use of Municipal Property, Services and Other Resources 10
12. Conduct of Election Campaign 10
13. No Improper Use of Influence 10
14. Non-Compliance with this Code of Conduct – Sanctions 11
15. No Reprisal or Obstruction in the Application or Enforcement of this Code 12
16. Statutes and Policies Regulating the Conduct of Members 12
17. Complaints Alleging Violation of This Code 13

1. Principles Upon Which This Code is Based

1.1 A municipality is a responsible level of government. Improving the quality of municipal governance and administration can best be achieved by encouraging high standards of conduct on the part of all Members. In particular, the public is entitled to expect the highest standards of conduct from the Members of its local government. In turn, adherence to these standards will protect and promote the Municipality's reputation and integrity.

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

a) Council, and its Members are the leaders of the Municipality both inside and outside its geographic boundaries. Especially in an age of social media and electronic messaging, strong positive management of the reputation of the Municipality is needed. The statements and behavior of Council affect the Municipality's reputation as a place to live and do business. Conflict and inappropriate conduct among Members, staff, officers and members of the public, adversely affects the Municipality's reputation and is to be avoided. Put differently, Council has a strong role to protect and promote the Municipality and its reputation as an excellent place to live, work and do business;

b) Members must serve and be seen to serve their constituents in a conscientious and diligent manner;

c) Members must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both real and perceived;

d) Members are expected to conduct themselves and perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;

e) Members must recognize and act upon the principle that democracy is best achieved when the operation of government is as transparent and accountable to the Public as possible;

f) Members 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;

g) Members must not use the status of their position to inappropriately influence the decision of another individual or body. For example, to obtain a personal advantage for the Member, the Member's parents, children, spouse, staff, friends, associates, business or otherwise; or to disadvantage another party.

h) Members shall be respectful of the role of staff to provide advice with political neutrality and objectivity and without undue influence from a Member or Members.

2. Application of this Code

2.1 This Code of Conduct applies to every Member.

3. Definitions

3.1 In this Code of Conduct:

a) "Benefit" means preferential treatment, privileged access, favours or other advantage including, but not necessarily limited to, invitations to sporting, cultural or social events, access to discounts and loyalty programs and promises of a new employment.

b) "Ceremonial Gift" means official gifts provided as part of the culture or practices of communities or government within Canada or internationally, which although they may be given to a Member, are accepted by a Member on behalf of a municipality and become the property of a municipality.

c) "Child" means a child born within or outside marriage and includes any adopted child, step child, foster child and a person whom a Member has a demonstrated a settled intention to treat as a child of his or her family;

d) "Confidential Information" means 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.

e) "Council" means the Council of the Municipality of Oliver Paipoonge.

f) "Gift" means free or discounted items or services and any item or service that would, viewed in light of all the circumstances, be regarded as a gift by a reasonable Person not including Ceremonial Gifts.

g) "Hospitality" means the friendly reception and entertainment of guests, which may range from light refreshments at a meeting to expensive restaurant meals and sponsored travel or accommodation.

h) "In-camera meeting" means a meeting, or part of a meeting, closed to the public pursuant to section 239 of the *Municipal Act, 2001.*

i) "Information" includes a record or document written or otherwise;

j) "Integrity Commissioner" means the Person appointed by 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.

k) "Local Board" means, for the purpose of this Code of Conduct, a local board other than:

   i. A society as defined in subsection 2(1) of the *Child, Youth and Family Services Act, 2017;*

   ii. A board of health as defined in subsection 1(1) of the *Health Protection and Promotion Act;*

   iii. A committee of management established under the *Long-Term Care Homes Act, 2007;*

   iv. A police services board established under the *Police Services Act* and/or the *Police Services Act, 2018;*

   v. A board as defined in section 1 of the *Public Libraries Act;* and

   vi. A corporation established in accordance with section 203 of the *Municipal Act, 2001;*

l) "Member" means a member of Council, which shall include the Mayor/Reeve, members of Committees and members of Local Boards, unless, with respect to members of Local Boards, the context requires otherwise, and shall not include staff or ratepayers.

m) "Officer(s)" means a person who holds a position of responsibility with definite rights and duties prescribed by statute or by-law.

n) "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;

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

p) "Spouse" means an individual to whom an individual is married or with whom an individual is living in a conjugal relationship outside marriage.

q) "Transparency" means that the municipality actively encourages and fosters stakeholder participation and openness in its decision-making processes. It means that the municipality's decision-making process is open and clear to the public.

4. Compliance with Declaration of Office

4.1 Every Member shall act in accordance with his or her declaration of office sworn pursuant to section 262 of the *Municipal Act, 2001*. A copy of the Declaration of Office is attached as Schedule "A".

5. Adherence to Council Policies and Procedures

5.1 Every Member 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.

6. Conduct at Meetings

6.1 Every Member shall conduct himself or herself properly and in a civil and respectful manner at meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.

6.2 Members will respect the decision-making process. Members will attempt to accurately and adequately communicate the attitudes and decisions of Council, even if they disagree with a majority decision of Council.

6.3 Members shall strive to attend all Council Meetings. Any Member who is unable to attend a Council Meeting shall advise the clerk as soon as is reasonably possible of the reason for their absence.

7. Conduct Respecting Others

7.1 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. The Member shall be familiar with, and comply with, the Municipality's Workplace Anti-Violence, Harassment and Sexual Harassment Policy.

7.2 A Member shall not use indecent, abusive or insulting words, tone or expressions toward any other Member, any municipal staff or any member of the public.

7.3 A Member shall not speak in a manner that is discriminatory to any individual, based on any protected grounds. Protected grounds include: citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex/pregnancy, family status, marital status, sexual orientation, gender identity, and gender expression[1].

8. Conduct Respecting Staff and Officers

8.1 Under the direction of the senior administrative staff, and in accordance with the decisions of Council, staff and Officers are required to serve the municipal corporation as a whole. Every Member shall be respectful of the role of staff and Officers to provide advice based on political neutrality and objectivity and without undue influence from any Member or group of Members. Accordingly, no Member shall maliciously or falsely injure or impugn the professional or ethical reputation of any staff person or Officer.

8.2 Members shall acknowledge and respect the fact that staff carry out directions of Council, through senior staff, including but not limited to the treasurer, clerk, director of public works, and administer the policies of the Municipality. No Member shall perform, direct or attempt to undermine the duties of any staff person or Officer except in accordance with the Municipality's procedural by-law.

[11] See *Human Rights Code,* R.S.O. 1990, c.H.19

8.3 Every Member shall show respect for staff and Officers, and for their professional capacities and responsibilities.

8.4 No Member shall direct, instruct or compel any staff member or Officer to engage in partisan political activities or subject any staff member or Officer to threat or discrimination for refusing to engage in any such activity.

8.5 No Member shall use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or improperly influencing any staff person or Officer or interfering with that person's duties, including the duty to disclose improper activity.

9. Gifts, Benefits and Hospitality

9.1 For the purposes of this Code, Gifts, Benefits and Hospitality provided, with a Member's knowledge, to that 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, are deemed Gifts, Benefits and Hospitality provided to that Member.

9.2 No Member shall accept Gifts, Benefits and Hospitality connected directly or indirectly with the performance of his or her duties, unless permitted under one or more of the exceptions listed below:

9.3 Each of the following is recognized as an exception:

a) compensation authorized by law;

b) Gifts, Benefits and Hospitality 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 their time in a function that would not normally be provided for compensation;

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 beverage consumed at a banquet reception or similar event, if:

i. attendance by the Member is for a legitimate municipal purpose;

ii. the Person extending the invitation, or a representative of the organization holding the event, is in attendance; and

iii. the value is reasonable;

h) communications to the office of a Member, even if such communication would, in the ordinary course, require a subscription; 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.

9.4 Except for exception 9.3 (c) (political contributions allowable by law), these exceptions do not apply where Gifts, Benefits and Hospitality are 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:

a) lobbies, or causes the lobbying of, any public office holder of the Municipality, the municipal council or corporation or a Local Board;

b) the Member knows is attempting or intending to lobby the Member or any of the public, Persons or bodies listed in paragraph (a); or

c) is maintaining an active lobbyist registration with the Municipality, whether or not with respect to any specific or current subject matter.

9.5 The exceptions in section 9.3 do not apply to a gift from an anonymous sender. No Member shall accept a gift from an anonymous sender. Where a Member receives a gift from an anonymous sender, the Member will turn the gift in to the Clerk who will donate the gift to a charity/organization on the Municipality's approved donation list.

9.6 In the case of any of the recognized exceptions in sections 9.3 (b), (e), (f), (h) and (i), to enhance transparency and accountability with respect to Gifts, Benefits and Hospitality, if the value of the Gift, Benefit or Hospitality is over $300, or if the total value of Gifts, Benefits and Hospitality received from any one source during the course of a calendar year exceeds $300, the Member shall file, within 30 days of receipt, or of reaching the annual limit, a disclosure statement with the Municipality or with its Integrity Commissioner.

9.7 The disclosure statement must set out:

a) the nature of all Gifts, Benefits, and Hospitality;

b) its source and date of receipt;

c) the circumstances under which it was given and received;

d) its estimated value or, if determinable, its exact 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.

9.8 Every disclosure statement filed under this Code shall be made a public record and posted in a place available for public review.

9.9 Upon receiving a disclosure statement, the Municipality or the Integrity Commissioner, as the case may be, shall examine, or in the case of the Municipality, appoint a Person to examine, the disclosure statement to ascertain whether the receipt of any Gifts, Benefits, or Hospitality, in his or her opinion, acting reasonably, contravenes this Code. Making such determination shall include providing the Member an opportunity to provide an explanation as to why receipt of any Gift, Benefit or Hospitality at issue does not contravene this Code.

9.10 Should a determination be made that receipt of any Gift, Benefit or Hospitality contravenes this Code, the Member shall be directed to promptly return, dispose of, or reimburse the person giving the Gift, Benefit or Hospitality, for the full value thereof, as applicable or remit the value of any gift or benefit already consumed to the Municipality.

10. Confidential Information

10.1 **No Member shall disclose, release, sell or publish by any means directly or indirectly, to any person or to the public, any Confidential Information acquired by virtue of his or her office**, in any form including, but not limited to, written notes, reports, oral and video recording, pictures, electronic correspondence, and any form of social media except when required or authorized by Council or otherwise by law to do so.

10.2 No Member shall use Confidential Information for personal or private gain or benefit, or to disadvantage any other person or body.

10.3 Unless required by law, no Member shall disclose the substance of deliberations of meetings held *in-camera* and that are authorized to be held *in-camera* under the *Municipal Act, 2001* or any other legislation unless or until Council discloses such information at a meeting that is open to the public or otherwise releases such information to the public.

10.4 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:

a) Information concerning litigation, negotiation or personnel or labour matters;

b) 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);

c) Price schedules in any contract, tender or proposal document while such remains Confidential Information;

d) Information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*; and

e) Any other information or statistical data required by law not to be released.

10.5 No Member shall obtain access, or attempt to gain access, to Confidential Information in the custody of the Municipality, Local Board or Committee 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.

11. Use of Municipal Property, Services and Other Resources

11.1 No Member shall use, or permit the use of, municipal equipment, land, facilities, supplies, services, staff or other resource, including any municipally-owned information, website, or funds allocated for Member 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, for which property remains exclusively that of the Municipality.

12. Conduct of Election Campaign

12.1 Every Member shall comply with all applicable requirements of the *Municipal Elections Act, 1996* and with the Municipality's municipal or board resources rules and procedures established pursuant to section 88.18 of the *Municipal Elections Act, 1996.*

12.2 No Member shall use Confidential Information, facilities, equipment, supplies, services, or other resources of the Municipality, including any Member newsletter or website linked through the Municipality's website, for any election campaign or campaign-related activity. No Member shall undertake campaign-related activities on municipal property during regular working hours unless authorized by the Municipality.

12.3 No Member shall use the services of any person for election-related purposes during hours in which that person receives any compensation from the Municipality.

13. No Improper Use of Influence

13.1 No Member shall 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.

13.2 No Member shall 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, the private advantage of the Member's parent, child, spouse, staff member, friend or associate, business or otherwise or the disadvantage of others. No Member shall attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. No Member shall hold out the

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

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

a) That is an interest in common with electors generally as defined in the *Municipal Conflict of Interest Act*;

b) that affects a Member, his or her parents/children or spouse, staff, 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.

13.4 This provision does not prevent a Member from requesting that Council grant a lawful exemption from a policy.

14. Non-Compliance with this Code of Conduct – Sanctions

14.1 A Member found by the Integrity Commissioner to have contravened any provision of this Code, may be subject to one or more of the following consequences imposed by Council as referred to in the following:

a) a reprimand;

b) suspension of the remuneration paid to the Member in respect of his or her services as a Member of the Council or Local Board, for a period of up to 90 days;

c) Other penalties, including, but not necessarily limited to:

i. Removal from membership of a Committee or Local Board;

ii. Removal as Chair of a Committee or Local Board;

iii. Require repayment or reimbursement of moneys received;

iv. Return of property or reimbursement of its value;

v. A request for an apology;

vi. Revocation of travel or another budget;

vii. Request for resignation; and

viii. Trespass order restricting access except for Council Meetings.

15. No Reprisal or Obstruction in the Application or Enforcement of this Code

15.1 Every Member 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 endorsement. 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.

15.2 Every Member shall cooperate with the Integrity Commissioner if the Integrity Commissioner conducts an inquiry concerning an alleged contravention of this Code.

16. Statutes and Policies Regulating the Conduct of Members

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

a) the *Municipal Act, 2001* as amended;

b) the *Municipal Conflict of Interest Act;*

c) the *Municipal Elections Act, 1996;*

d) the *Municipal Freedom of Information and Protection of Privacy Act;*

e) the *Ontario Human Rights Code;* and,

f) the *Occupational Health and Safety Act.*

16.2 The following policies govern the conduct of Members:

Procedural By-Law	July 9, 2018	60-2018
Accountability and Transparency	September 14, 2009	01-01-01
Communications Policy	October 13, 2011	01-12-01

16.3 The *Criminal Code* also governs the conduct of Members.

16.4 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* 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. Should any provision of the Code become or be determined to be invalid, illegal or unenforceable, it shall be considered separate and several from the agreement and the remaining provisions shall remain in force.

17. Complaints Alleging Violation of This Code

17.1 Where a Member, a municipal employee, Officer, or a member of the public has reasonable grounds to believe that a Member(s) has contravened this Code, a complaint may be submitted to the Clerk's Department in the prescribed form which will be forwarded to the Municipality's Integrity Commissioner who will process it in accordance with the Integrity Commissioner Inquiry Protocol attached hereto as Schedule "B". The Complaint may also be submitted directly to the Integrity Commissioner in the event that such office is readily accessible.

17.3 Where a Member is found not to have contravened this Code, the Municipality is authorized to protect that Member against costs or expenses incurred by the Member as a result of the complaint proceedings.

DECLARATION OF OFFICE
(Section 232 of the *Municipal Act, 2001)*

I, _____, having been elected or appointed to the office
(*name of person*)

of _____
(*name of office*)

in the municipality of _____
(*name of municipality*)

do solemnly promise and declare that:

1. I will truly, faithfully and impartially exercise this office to the best of my knowledge and ability.

2. I have not received and will not receive any payment or reward, or promise thereof, for the exercise of this office in a biased, corrupt or in any other improper manner.

3. I will disclose any pecuniary interest, direct or indirect, in accordance with the *Municipal Conflict of Interest Act*.

4. I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (or the reigning sovereign for the time being).

And I make this solemn promise and declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me)
at the .....)
.....) _____
.....) signature of declarant
on .....)
20.....)

_____
Commissioner for taking Affidavits