



## Codes of conduct and other ethical rules

Codes of conduct usually set out expectations and standards for councillor conduct. Codes may help prevent ethical conflicts and help in their resolution, serve as a basis for council orientation and training, and serve as a reference throughout the operation of the council's term.

Municipalities are required to establish codes of conduct for members of council and certain local boards and include the following subject matters in their local codes:

- gifts, benefits and hospitality
- respectful conduct, including towards officers and employees of the municipality or of local boards
- confidential information
- use of municipal or local board property

With the growing importance of accountability and integrity, more municipalities have adopted codes of conduct for members of council and certain local boards. Some have also adopted other procedures, rules and policies governing the ethical behaviour of those members.

### **Sample considerations: codes of conduct**

It is up to municipalities to decide on the content and style of their codes of conduct for members of council and local boards. At the same time, as noted above, municipalities are required to include certain subject matters in their codes of conduct.

It will be up to municipalities to decide how to develop their codes. Here are some matters that a municipality may wish to consider when developing and reviewing their codes of conduct:

- Working with local boards when developing local board codes of conduct
  - Deciding what subjects to include in local codes of conduct (beyond those that are required by the above-described Minister's regulation)
  - Reviewing and updating existing codes of conduct, including consulting with their Integrity Commissioner on an appropriate review cycle and whether to include it in the code of conduct.
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- Including rules about accepting and disclosing gifts, benefits and hospitality of a certain monetary value
- Establishing standards of respectful conduct. Some municipalities have included in their codes of conduct specific rules addressing member conduct at meetings, member conduct towards other members, the public and complainants. Some municipalities have also described in their codes what would be considered a disrespectful conduct (for example bullying and harassment)
- Establishing a local process for complaints about a councillor's conduct and addressing matters such as how complaints are to be made, time limits for making a complaint, confidentiality, options for informal resolution, investigation procedures, and reports
- Working with their Integrity Commissioner to help establish an accessible and open complaints process for codes of conduct
- Reviewing how their codes of conduct fit with the other aspects of their local accountability regime, for example how it fits with an existing council-staff relations policy, or the roles and responsibilities of local Integrity Commissioners

\*The Ontario Municipal Councillor's Guide, 2. Accountability and transparency, 2. Codes of conduct and other ethical rules

For additional information, please contact the Municipal Office.

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**THE CORPORATION OF THE TOWNSHIP OF MACHAR**

**BY-LAW NO. 20-07**

Being a by-law to establish a Code of Conduct for the Township of Machar.

WHEREAS Section 11 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations and of its local boards and their operations, and

WHEREAS Section 223.2(1) of the Municipal Act, S.O. 2001, c. 25, as amended, authorizes municipalities to establish codes of conduct for members of the Council of the municipality and of local boards of the municipality, and

WHEREAS Section 223.2(5) of the Municipal Act 2001, S.O. 2001, c. 25, as amended, authorizes penalties for a contravention of the code of conduct, and

WHEREAS Council of the Corporation of the Township of Machar deems it expedient to establish a Code of Conduct for Council;

NOW THEREFORE Council of the Corporation of the Township of Machar hereby enacts as follows:

1. THAT this Council does hereby adopt the Code of Conduct, attached hereto as Schedule "A".
2. THAT Schedule "A" forms part of this by-law.
3. THAT this by-law shall come into force and take effect upon receiving the final passing thereof.

READ a 1<sup>st</sup> and 2<sup>nd</sup> time this **December 10, 2007**.

READ a 3<sup>rd</sup> time and finally passed this **December 10, 2007**.

.....  
Per Mayor Harvey Pinkerton

.....  
Per Clerk-Administrator Brenda Paul, AMCT

## **SCHEDULE "A" TO BY-LAW 20-07**

### **Code of Conduct for Members of Council of the Township of Machar**

#### **A. PURPOSE OF THE CODE OF CONDUCT**

The Code of Conduct sets a minimum standard for the behaviour of Council members in carrying out their functions. It has been developed to assist Council to:

1. Understand the standards of conduct that are expected of them and the law that applies in relation to these standards,
2. Fulfill their duty to act honestly and exercise reasonable care and diligence,
3. Act in a way that enhances public confidence in local government, and
4. Identify and resolve situations which might involve a conflict of interest or a potential misuse of position and authority.

#### **B. STANDARDS OF CONDUCT**

1. Members of Council shall at all times seek to advance the common good of the community which they serve.
2. Members of Council shall truly, faithfully and impartially exercise the office to the best of their knowledge and ability.
3. Members of Council shall refrain from behaviour that could constitute an act of disorder or misbehaviour. Specifically, Members of Council shall refrain from conduct that:
  - Contravenes Federal or Provincial statutes or legislation, the Municipal Act, Municipal by-laws, associated regulations, and the Municipality's Code of Conduct.
  - Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others.
  - Prejudices the provision of a service or services to the community.

#### **C. CONDUCT TO BE OBSERVED**

##### **1. Release of Confidential Information**

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with at in camera or closed session meetings or that is determined to be confidential by the Clerk or as specifically declared by Council. A Member of Council shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the in camera or closed session deliberations to anyone, unless expressly authorized by Council or required by law to do so.

- a. Members of Council shall not release information in contravention of the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, Chapter M.56.
- b. Members of Council shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so.
- c. Members of Council shall not misuse confidential information (information that they have knowledge of by virtue of their position as Councillor that is not in the public

domain, including e-mails and correspondence from other Members of Council or third parties) such that it may cause detriment to the Corporation, Council or others, or benefit or detriment to themselves or others.

d. All in camera materials shall be collected at the end of each in camera session by the Clerk or CAO.

2. Foster Respect for Decision-making Process

All Members of Council shall accurately and adequately communicate the attitudes and decisions of the Council, even if they disagree with Council's decision, such that respect for the decision-making process of Council is fostered.

3. Release of Information to Public and Media

Members of Council acknowledge that official information related to decisions and resolutions made by Council will normally be communicated to the community and the media by the Council as a whole or the Mayor as Head of Council or by those so designated.

4. Acceptance of Gifts

Council members shall comply with the Municipal Conflict of Interest Act and must not accept a gift or personal benefit that is connected with their performance of the duties of office. This does not include gifts or personal benefits received as a matter of the protocol or social obligations that normally accompany the responsibility of office.

5. Engaging in Incompatible Activity

Members of Council shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of official duties in the public interest.

Without limiting the generality of the foregoing, Members of Council shall not:

- a. use any influence of office for any purpose other than official duties;
- b. act as an agent before Council or any committee, board or commission of Council;
- c. solicit, demand or accept the services of any corporation, employee, or individual providing services to the municipality at a time in which said person or corporation is being paid by the municipality;
- d. use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;
- e. place themselves in a position of obligation to any person or organization which might benefit from special consideration or may seek preferential treatment;
- f. give preferential treatment to any person or organization in which a Member or Members of Council have a financial interest;
- g. influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which a Member or Members of Council have a financial interest; and
- h. use Corporate materials, equipment, facilities or employees for personal gain or for any private purpose.

## 6. Conflict of Interest

It is the responsibility of individual Councillors to ensure that they are aware and trained in the application of the Municipal Conflict of Interest Act. The onus is on the Councillor to identify a conflict of interest, and shall take the appropriate action to identify the existence of a conflict in favour of his/her public duty.

a. A conflict exists when an individual is, or could be, influenced, or appear to be influenced by a personal interest, financial (pecuniary) or otherwise, when carrying out their public duty. Personal interest can include direct or indirect pecuniary interest, bias, pre-judgement, close mindedness or undue influence.

b. Council members must appropriately resolve any conflict or incompatibility between their personal interests and the impartial performance of their public or professional duties in accordance with statutory requirements. When considering whether or not a conflict exists, it is important to consider whether there are any grounds for a reasonable person to think that a conflict exists.

Recognizing that it is impossible to anticipate all possible conflicts that may arise during a Member's term of office and, those conflicts may not be only pecuniary in nature, it is generally advisable to be as open as possible. It is not enough that a conflict not exist, it must also be seen by taxpayers not to exist.

The following principles should be used as a guide (refer to Municipal Conflict of Interest Plus A Handbook by Forbes and Conant):

- i. In making decisions, always place the interests of the taxpayers first and, in particular, place them before the interests of colleagues on Council, staff, friends, or family.
- ii. Always interpret the phrase "Conflict of Interest" in the broadest possible terms.
- iii. A factor which could be considered a conflict by taxpayers should be treated as a conflict and be disclosed by the member of Council.
- iv. If in doubt, it is better to disclose a situation.
- v. It is the responsibility of individual Councillors to obtain independent legal advice with respect to any situation that might arise whereby there is a potential for a conflict of interest.
- vi. It is considered a breach of this policy to require or to attempt to burden staff members to assist in the determination of a conflict of interest for individual Councillors.

## 7. Avoidance of Waste

Members of Council shall avoid waste, abuse and extravagance in the provision or use of public resources, and shall expose fraud and corruption of which the Member of Council is aware.

## **D. INTERPERSONAL BEHAVIOURS OF MEMBERS OF COUNCIL**

### **1. Treat Every Person with Dignity, Understanding and Respect**

Members of Council shall abide by the provisions of the Human Rights Code and, in doing so, shall treat every person, including other Members of Council, corporate employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect for the right to equality and the right to an environment that is safe and free from harassment and discrimination.

## **2. Not to Discriminate**

In accordance with the Human Rights Code, Members of Council shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, religious affiliation of faith, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability. “Age”, “disability”, “family status”, “record of offences”, “same sex partnership status” shall be as defined in the Human Rights Code.

## **3. Not to Engage in Harassment or Bullying (Psychological Harassment)**

In accordance with the Human Rights Code, harassment shall mean engaging in a course of vexatious comment or conduct that is known, or ought to be known, to be unwelcome. Bullying is the ongoing health- or career-endangering mistreatment of an employee, by one or more of their peers or higher-ups. Unlikely to involve physical violence, it usually takes the form of psychological abuse. Often, verbal and strategic insults are intended to prevent targets from being successful in their job.

The exercise of performance management tools with respect to corporate employees for legitimate purposes by Council is not harassment or bullying.

## **4. Protection of Privacy**

Councillors shall comply with the Municipal Freedom of Information and Protection of Privacy at all times. Public comments, discussions and disclosures to the media regarding employees or individuals that breach a persons privacy is deemed to be a contravention of this Code of Conduct.

## **E. ALLEGATIONS, BREACHES AND DISCIPLINARY ACTIONS**

All members of Council shall abide by the requirements of this Code of Conduct.

### **1. Complaints made by Corporate Employees of Discrimination or Harassment**

Where a corporate employee makes a complaint of harassment or discriminatory treatment by a Member of Council, the Member of Council may participate in the Informal Resolution and/or Mediation process.

If the Member of Council does not participate in these processes or if the complaint is not resolved through these processes, the complainant may lodge a complaint to the Ontario Human Rights Commission.

### **2. Complaints made by Any Person (Allegations of Activity Other Than in 1. above)**

Any complainant may take the following steps, if applicable, to address prohibited activity by a Member of Council.

a. A complainant may provide a written report or letter to their supervisor and the Mayor and/or the Deputy Mayor.

b. A complainant may contact the OPP with respect to an investigation under s. 122 of the Criminal Code of Canada, where the allegation is that a Member of Council, in a matter connected to the duties of office, commits fraud or a breach of trust.

c. A complainant may contact the OPP with respect to an investigation under s. 123 of the Criminal Code of Canada, where the allegation is that a Member of Council, in a matter connected to the duties of office, demands, accepts, or offers or agrees to accept from any person, a loan, reward, advantage or benefit of any kind.

d. A complainant may advise the Member of Council verbally or in writing that the activity contravenes this by-law.

- e. A complainant may encourage the Member of Council to stop the prohibited activity.
- f. A complainant should keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information.
- g. A complainant may refer his or her complaint to the Ontario Human Rights Commission where the alleged misconduct involves a violation of the Human Rights Code.

## **F. PROFESSIONAL DEVELOPMENT**

Members of Council shall promote and participate in opportunities for professional development. Council Members are required to stay updated on issues and trends so that they can be as efficient and effective as possible in the carrying out of their duties and responsibilities.

## **G. IMPLEMENTATION**

1. A Code of Conduct component will be included as part of the orientation package for each new Council.
2. Council Members are expected to formally and informally review their adherence to the provisions of the Code on a regular basis.

By-Laws: Code of Conduct





**Appendix A**

**Council Code of Conduct - Request for Advice Form**

**Township of Machar**

**Name of Member:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Advice Requested: (Please provide as much detail as possible. Attach additional pages if required.)**

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\_\_\_\_\_  
**Signature of Requestor**

\_\_\_\_\_  
**Date Received by Integrity Commissioner**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date Reply Issued**

Appendix B

Council Code of Conduct - Formal Complaint Form/Affidavit

Township of Machar

Affidavit of \_\_\_\_\_ (full name)

I, \_\_\_\_\_ (full name), of the \_\_\_\_\_ (City, Town, etc.)

\_\_\_\_\_ (County of residence) in the Province of Ontario

Make Oath and Say (or affirm):

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(insert reasons e.g. I work for... I attend a meeting at which.....etc.)

2. I have reasonable and probable grounds to believe that a member of the Township of Machar Council \_\_\_\_\_ (specify name of member)

Has contravened section (s) \_\_\_\_\_ (specify section(s)) of the Council Code of Conduct of the Township of Machar.

The particulars of which are as follows: (set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule A form (Additional Information form). If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc. and attach them to this Affidavit)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Affidavit is made for the purpose of requesting that this matter be reviewed by the Township of Machar appointed Integrity Commissioner and for no other purpose.

Sworn (or affirmed) before me at) \_\_\_\_\_ )

\_\_\_\_\_ (City, Town, etc.) of) \_\_\_\_\_ )

In the Province of Ontario on) \_\_\_\_\_ )

\_\_\_\_\_ (date) ) \_\_\_\_\_ )

\_\_\_\_\_ ) (Signature)

(Signature of Commissioner)  
A Commissioner for taking affidavits etc.

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

