



TOWN OF PELHAM POLICY MANUAL

P201-15

Department:

COUNCIL

Name of Policy:

Code of Conduct: Members of Council

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APPROVAL DATE: July 15, 2013

PURPOSE/AUTHORITY:

This Code of Conduct supplements the Town of Pelham Procedural By-law, and Provincial Legislation which is in place to govern the conduct of elected officials, being:

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

The Municipal Act, 2001 (the Act) authorizes municipalities to establish codes of conduct for members of the council of the municipality, and of local boards of the municipality and authorizes penalties for a contravention of the code of conduct. The Code of Conduct sets out minimum standards for the behaviour of Council members in carrying out their functions as elected officials of the Town of Pelham. It has been developed to assist Council to:

- Understand the standards of conduct expected of them and the laws applicable in relation to these standards;
- Fulfill their duty to act honestly and exercise reasonable care and diligence;
- Act in a way that enhances public confidence in local government;
- Identify and resolve situations which may involve a conflict of interest or a potential misuse of position and authority;
- Complement the Accountability and Transparency Policy and provisions of the Act in this regard' and
- Enhance public confidence that elected representatives operate with integrity, transparency, justice, courtesy and respect.



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POLICY STATEMENT:

This Code of Conduct represents a public declaration of the principles of good conduct and ethics that have been adopted to demonstrate in the performance of the responsibilities as elected community representatives. It is recognized that attaining an elected position within one's community is a privilege which carries significant responsibilities and obligations. Members are held to a high standard as leaders of the community and as such, are expected to carry out their duties in a fair, impartial, transparent and professional manner.

The Council of the Town of Pelham has developed statements outlining principles and values, as well as key areas of accountability, through the adoption of the 2011 Corporate Strategic Plan. Principles and Values as contained therein, state that:

- We treat everyone with respect, dignity, honesty and courtesy;
- Effectively communicating strengthens and connects us;
- We interact with the highest level of professionalism;
- We work as a team to attain our vision;
- We are innovative in a creative and continuous learning environment.

In addition, the Town of Pelham Communication Plan provides a basis for the establishment of a formal Code of Practice as contained in Appendix 2 therein. Of equal importance is the Town of Pelham Procedural By-law and statutory requirements of the Municipal Act, 2001, as may be amended from time to time.

The Town of Pelham has adopted as its Parliamentary Authority, "*Meeting Procedures – Parliamentary Law and Rules of Order for the 21st Century*", James Lochrie which summarizes the general principles of Parliamentary Law as follows:¹

1. The majority must be allowed to rule.
2. The minority have rights that must be respected.
3. Members have a right to information to help make decisions.
4. Courtesy and respect for others are required.
5. All members have equal rights, privileges, and obligations.
6. Members have a right to an efficient meeting.

¹ "Meeting Procedures", Lochrie, James, Scarecrow Press, Inc. 2003



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ROLES AND RESPONSIBILITIES:

As detailed in the Municipal Act, it is the role of Council:

- to represent the public and to consider the well-being and interests of the municipality;
- to develop and evaluate the policies and programs of the municipality;
- to determine which services the municipality provides;
- to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- to maintain the financial integrity of the municipality; and
- to carry out the duties of Council under this or any other Act.

It is the role of the Head of Council:

- to act as Chief Executive Officer of the municipality;
- to preside over Council meetings so that its business can be carried out efficiently and effectively;
- to provide leadership to the Council;
- to provide information and recommendations to the Council with respect to the role of Council described in Sections 224 (d) and (d.1) of the Municipality Act, 2001;
- to represent the municipality at official functions; and,
- to carry out the duties of the Head of Council under this or any other Act.

As Chief Executive Officer of a municipality, the Head of Council shall:

- uphold and promote the purposes of the municipality;
- promote public involvement in the municipality's activities;
- act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
- participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.



APPLICATION AND STANDARDS OF CONDUCT:

This Code of Conduct shall apply to all Members of Council including the Mayor, who shall:

- At all times seek to advance the common good of the Town of Pelham;
- Act in a fair, honest and proper manner according to the law and truly, faithfully and impartially exercise the office to the best of their knowledge and ability;
- Maintain and enhance the image of Council and not act so as to adversely reflect on Council;
- Remain impartial in deliberating Council decisions, and accept the responsibility associated with each decision as adopted in accordance with the Rules of Procedure;
- Refrain from criticizing any decision of the Council except for the purpose of moving that the question be reconsidered;
- Abide by the provisions contained in this Code of Conduct in the performance and discharge of official functions and duties, and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;
- Serve and be seen to serve constituents in a conscientious and diligent manner;
- Avoid the improper use of the influence of their office and declare conflicts of interest, both apparent and real;
- Seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature and the Council of the Town of Pelham.

CONDUCT TO BE OBSERVED:

1. Use of Information; Release of Confidential Information:

Members of Council will be privy to information that may be of a confidential or controversial nature from time to time, including but not limited to information provided during closed session/in camera meetings conducted in accordance with the Municipal Act. Members of Council have a duty to hold in strict confidence all such information. Therefore, it is expected that:



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- Members 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 deliberations to anyone, unless expressly authorized by Council or required by law to do so;
- Members shall not use information received in confidence inappropriately to their personal advantage;
- Members will respect the status of confidential information until the matter ceases to be confidential, as determined by Council;
- Members understand that they enjoy the same access rights to municipal information as any other member of the community, unless it is specifically relevant to a matter before the Council;
- Members will only release information according to the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, Chapter M.56;
- Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so;
- Members 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;
- Members shall not release information regarding items under litigation, negotiation, or personnel matters, or information that infringes on the rights of others (e.g. sources of complaints where the identity of a complainant is given in confidence);
- Members of Council shall not access or attempt to gain access to confidential information in the possession of the Town unless it is necessary for the performance of their duties and not prohibited by Council policy;
- In camera materials shall be returned to the custody of the Clerk or CAO at the end of each in camera session.

2. Respect for the Decision-Making Process:

All members of Council shall accurately and adequately communicate the attitudes and decisions of Council, even if they voted in the minority and/or disagree with Council's majority decision, such that respect for the decision-making process of Council is fostered.



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3. Communications and Media Relations:

The Mayor or designate is the spokesperson for the Town of Pelham, in accordance with the Town of Pelham's Communication Plan. It is, however, recognized that there may, at times, be cause for others to be involved with the media. Adherence to the protocols contained in the Communication Plan shall be adhered to in this circumstance. Further details pertaining to protocols surrounding press releases are contained in the Procedural By-law.

4. Acceptance of Gifts and Benefits:

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.

Members shall not accept fees, gifts, hospitality or personal benefits that are connected directly or indirectly with the performance of duties as members of Council, except compensation authorized by law.

This does not apply to tokens, mementoes, souvenirs, or such gifts or benefits up to and including a value of \$100.00 that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of office. Tokens, mementoes, souvenirs or gifts with a value greater than \$100.00 shall be the property of the Town of Pelham.

No Member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to services not otherwise available to the general public and not consequent to his or her official duties.

5. 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:

- Use any influence of office for any purpose other than official duties;
- Act as an agent before Council or any committee, board or commission of Council;



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- 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;
- 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;
- Place themselves in a position of obligation to any person or organization which might benefit from special consideration or may seek preferential treatment;
- Give preferential treatment to any person or organization in which a Member or Members have a financial interest;
- 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
- Use Corporate materials, equipment, facilities or employees for personal gain or for any private purpose. When dealing with municipal employees for matters of a personal nature, members of Council shall do so in the same manner as residents of the Town.

6. Conflict of Interest:

Members of Council will recognize their obligations to follow and respect both the letter and spirit of the provisions of the Municipal Act and the Municipal Conflict of Interest Act, 1994, as amended from time to time, and will disclose other interests which may not necessarily be of a pecuniary nature.

It shall be the responsibility of individual Councillors to ensure they are aware of 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 take the appropriate action to identify the existence of a conflict in favour of his/her public duty.

7. Interpersonal Behaviour of Members of Council:

It is the policy of the Town that all persons be treated fairly in the workplace, in an environment free of discrimination and of personal and or sexual harassment, as defined under the provisions of the *Ontario Human Rights Code*. Accordingly, Members of Council shall:

(i) Treat Every Person With Dignity, Understanding and Respect:

Members of Council shall abide by the provisions of the *Human Rights Code* and, in so doing, shall treat every person, including other Members of Council, corporate employees, and members of the public with dignity,



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understanding and respect for the right to equality and the right to an environment that is safe and free from harassment and discrimination.

(ii) Not to Discriminate:

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

(iii) Not Engage in Harassment or Bullying:

Harassment shall mean engaging in a course of vexatious comment or conduct that is known, or ought to be known, to be unwelcome.

8. Relationships with Staff:

Members of Council will:

- Acknowledge that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions, through the process of “Staff Directions” as contained in the Procedural By-law;
- Refrain from using their position to improperly influence members of staff in their duties or functions or to gain an advantage for themselves or others;
- Refrain from publicly criticizing individual members of staff in a way that casts aspersions on their professional competence and credibility;
- Recognize that the policy development role of Council and operational/implementation role of Administration will be respected;
- Refrain from any attempt to direct the activities of staff or departments except through established channels of authority;
- Direct any criticisms of staff through the Chief Administrative Officer and refrain from criticizing staff in public or to the media, using the facilitation/mediation protocol attached to this Policy as “Appendix A”.

REPRISALS AND OBSTRUCTION:

Members shall respect the integrity of the Code of Conduct and any investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Resolution Committee and/or Integrity Commissioner is therefore prohibited. It is also a violation of this Code of Conduct to obstruct the Resolution Committee or Integrity Commissioner in the carrying out of responsibilities such as, for



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example, by the destruction of documents or erasing of electronic communications.

IMPLEMENTATION AND COMPLIANCE:

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

Implementation:

At the beginning of every term of Council, members will be expected to sign two copies of the Code of Conduct policy. One will be retained by each member and one copy, signed by all members, will be maintained by the Clerk. A review of the Code of Conduct will be included in the Council Orientation workshop. Further, members are expected to formally and informally review their adherence to the provisions of the Code on a regular basis.

Compliance:

Investigation will be available through a two-step protocol. The first step will be via an Informal Complaint Procedure which will entail any alleged breach of the Code of Conduct. This may be initiated through a request, in writing setting out the particulars of the alleged breach, to the Facilitation Committee as outlined in Appendix B. The Complaint Investigation form is included in the Appendix.

Failure to resolve matters of breach through the Informal Complaint Procedure will result in a referral to an Independent Mediator/Integrity Commissioner, duly appointed by the Council for the Town of Pelham. The Commissioner appointed by the municipality will investigate the alleged breach in an independent manner and report back to the Council. The Commissioner shall preserve secrecy with respect to all matters that come to his/her knowledge in the course of his/her duties of the investigation, except as may be required by law. Decisions of a breach, recommendations and options for remedial action will be made by the Integrity Commissioner and submitted to Council.

Penalties for a Breach of the Code of Conduct:

No Member of Council shall take a reprisal or make a threat of reprisal against a Complainant or any other person for providing information to the Integrity Commissioner.



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Should the Integrity Commissioner find that the member has contravened the Code of Conduct and reports his/her findings to Council as such, Council may impose either of the following penalties on the member, in accordance with provisions of the Municipal Act, Subsection 223.4(5):

1. A reprimand;
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.



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APPENDIX "A" COMMITMENT OF THE COUNCIL MEMBERS

We, the Members of the Council of the Town of Pelham, hereby declare that we are committed to observing this Code of Conduct and agree to abide by the provisions set out herein.

Term of Council: _____

Mayor

Councillor, Ward One

Councillor, Ward One

Councillor, Ward Two

Councillor, Ward Two

Councillor, Ward Three

Councillor, Ward Three



APPENDIX "B" INFORMAL COMPLAINT PROCEDURE PROTOCOL FOR RESOLUTION FACILITATION

The protocol for resolution and facilitation to reach such resolution is envisioned in this policy as one incorporating a consensual process. The process will seek to achieve an outcome based on agreement among those in dispute. The disputants will work together towards agreement. Facilitation meetings will be conducted without prejudice, be confidential, neutral, impartial and fair. Any notes or written documentation will be maintained in the custody of the Clerk in the same manner as maintaining minutes of In Camera meetings. Outcomes achieved in a consensual process are at the will of the parties who will severally have the right to accept or reject a proposed resolution based on whether it adequately meets their needs.

Failure to reach an agreement between the parties will result in utilizing the services of an independent mediator (Integrity Commissioner) that shall be appointed by the Council.

A Resolution Committee meeting should be held as soon as possible after the problem comes to light. This will ensure that the facts are fresh in the memory of parties involved. Members of a Resolution Committee shall include:

1. The Mayor or designate as facilitator;
2. Member of Council involved in the matter;
3. Neutral Member of Council, i.e. Chair or Vice Chair of General Committee Division
4. Chief Administrative Officer or designate;
5. Department Head involved in the matter or designate; and
6. Town Clerk or designate for recording purposes only.



Steps to Resolving Conflict:

✓ **Explain the Situation - Complainant**

The complainant shall first be provided the opportunity to explain the situation in their own view of the problem, remaining focused on the problem and not on personalities. At no time will name-calling, blame or disparaging remarks be permitted by the facilitator.

Parties shall use a “facts and feelings” approach:

*The problem is *** and this makes me feel *** and I would like this to happen ***.*

✓ **Responding Party View of Problem/Situation**

Respondent repeats what (s)he has heard and offers their view of the problem while also remaining focused on the problem itself. If appropriate an apology or reciprocal apologies, may be forthcoming.

✓ **Keep Dialogue Positive and Forward Looking**

Focus on the present and future, not the past. The facilitator will ensure that all parties stay on topic, i.e. not mentioning irrelevant matters not at issue. Further, the facilitator may ask for alternatives to be explored and look for ways to agree. If misunderstandings develop, the facilitator should restate/clarify until matters are correctly understood.

✓ **Agree on the Problem**

Viewpoints will be listed and categorized by level of seriousness. At this point it may be possible to determine if the problem is a misunderstanding or a difference in perception. State clearly the problem that both parties agree needs to be resolved.

✓ **Explore Possible Solutions**

Methods may include: each party making a list of his/her interests in priority order; brainstorming for possible solutions; analyze possible solutions. Focus should be on behaviour change and not personality changes. Keep the person separate from the problem.

✓ **Agree on the Solution**

Difficult decisions may be necessary. Solution should be specific about what is to be done by whom, where and when. Collaboration is paramount and everyone involved must understand what is expected as part of the resolution, and take responsibility for doing it. Timeline expectations should be included in the stated solution.



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✓ **Set a Review Date**

In order that all parties have the opportunity to review the progress in resolving the conflict, a follow-up meeting should be convened. All parties should agree to the timeline for review.

Failure to resolve the conflict may result in the need for independent mediation through negotiation by an acceptable, neutral and impartial third party. Should this be necessary, Council has the authority to appoint an Integrity Commissioner, as provided for in the Municipal Act.



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The Corporation of the **TOWN OF PELHAM**

CODE OF CONDUCT COMPLAINT FORM/AFFIDAVIT

I, _____, of the _____ in the Province
(full name) *(city, town, etc.)*

of Ontario, **MAKE OATH AND SAY:**

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

_____ *(insert reasons, i.e. I work for ... I attended a meeting at which, etc.)*

2. I have reasonable and probable grounds to believe that the Member of the Town of Pelham Council or Advisory or Statutory Committee,

_____ has contravened section(s) _____
(specify name of Member) *(specify section(s))*

of the Code of Conduct for Members of Council or for Members of Advisory and Statutory Committees. The particulars of the contravention are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space provided, with each paragraph confined as far as possible to a particular statement of fact. If more space is required, please use the attached Schedule "A" 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.)

SWORN before me at the _____)
 Of _____, in the Province of Ontario)
 This _____ day of _____, 20____) _____
(signature)

(A Commissioner for taking affidavits, etc.)

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



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**SCHEDULE A
 ADDITIONAL INFORMATION
 To the affidavit required under the Code of conduct for Members of Council**

If more than one page is required, please photocopy this blank page and mark each additional page as “2 of 2”, “2 of 3”, etc. at the top right corner.

This is Schedule “A” referred to in the affidavit of

Sworn before me on this _____ day of _____, 20 ____.

(Signature)

(A Commissioner for taking affidavits, etc.)