



<b>Policy Name: Code of Conduct for Members of Council and Local Boards</b>	<b>Policy No: S201-15</b>
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Department/Division:	Council

**1. Purpose**

1.1. The purpose of this policy is to establish a Code of Conduct pursuant to and in accordance with the *Municipal Act, 2001*, S.O. 2001, c. 25 (“*Municipal Act, 2001*”), Part V.1 – Accountability and Transparency.

**2. Policy Statement**

2.1. This Code of Conduct is intended to set a high standard of conduct for all Members of Council in the individual discharge of their Official Duties in pursuit of good governance and a high level of public confidence. The Town’s elected and appointed representatives should operate with integrity, transparency, honesty and courtesy.

2.2. This Code of Conduct applies to the Mayor, Members of Council and, with necessary modifications, to Members of Local Boards as defined herein.

2.3. This Code of Conduct does not apply to Town staff.

**3. Definitions**

3.1. In this policy:

“**Chief Administrative Officer**” or “**CAO**” means the Chief Administrative Officer of the Corporation of the Town of Pelham.

“**Complaint**” means a written request received by the Town for an investigation of an alleged contravention of this Code of Conduct.

“**Complainant**” means a person who submits a Complaint.

“**Complaint Protocol**” means Town Policy No. S201-16, Advice Complaint and Investigation Protocol, as amended from time to time.

“**Confidential Information**” means information or records in the possession or custody of or under the control of the Town that must be kept confidential and/or cannot be disclosed under the *Municipal Act, 2001* or other applicable legislation including but not



limited to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56 (“*MFIPPA*”), and/or the procedural by-law of the Town or any of its other by-laws, policies, rules or procedures.

“**Council**” means the council of the Town of Pelham and includes Committees of Council.

“**Election Period**” means the period that begins on nomination day for a regular election and ends on voting day for a regular election as set out in the *Municipal Elections Act, 1996*, S.O. 1996, c. 32 (“*MEA*”).

“**Family Member**” means a child, parent or spouse of a Member as those terms are defined in the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50 (“*MCI*A”).

“**Frivolous**” or “**Vexatious**” means a Complaint that is initiated with malicious intent, is without merit or is part of a pattern of conduct by a Complainant that amounts to an abuse of the Complaint process.

“**Gift or Benefit**” means cash, fees, admission fees, advances, vouchers, invitations, services, hospitality, travel and accommodation, entertainment or other thing or consideration, given, donated, transferred or otherwise conveyed to a Member, unless the giver, donor, transferor, or conveying person receives payment or other or other consideration of goods property, of equal or greater value to the value of what was so provided.

“**Incidental Personal Use**” means a Member’s use of a Town-issued electronic device in relation to personal matters provided that such use is infrequent, brief, reasonable and ethical, does not interfere with the Official Duties of the Member or the functions of the Town, and does not contravene this Code of Conduct or any other applicable by-laws, policies and/or procedures of the Town.

“**Integrity Commissioner**” means the person appointed by Council as the Town’s Integrity Commissioner and responsible to perform the functions of an integrity commissioner under Part V.1 of the *Municipal Act, 2001*.

“**Local Board**” means the Committee of Adjustment of the Town, Humberstone Landfill Site Public Committee, Lincoln-Pelham Union Public Library Board, Niagara Central Dorothy Rungeling Airport Commission, Niagara Transit Commission, Niagara Peninsula Energy Inc., Peninsula West Power Inc. and any other local board that may be established or that exercises any statutory power with respect to the purposes or affairs of the Town.

“**Member**” means a member of Council, including the Mayor and Deputy Mayor, or a member of a Local Board.



**“Non-Pecuniary Interest”** means a private or personal interest that a Member may have that is non-financial in nature, but that arises from a relationship with a person or entity that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the interest arises.

**“Official Duties”** means the public duties or responsibilities of a Member and includes functions performed by Members necessary to demonstrate responsible and accountable governance with respect to matters within the jurisdiction of Council or a Local Board, as the case may be, and are done for the purpose of providing good governance in relation to such matters.

**“Social Media”** means web-based applications and online forums that allow users to interact, share and publish content such as text, links, photographs, audio files and videos.

**“Staff”** means the Chief Administrative Officer (“CAO”), officers, directors, managers, volunteers, supervisors, and employees of the Town, including full-time, part-time, casual, temporary and seasonal staff, students, and any agents or consultants retained by the Town to act on its behalf.

**“Town”** means the Corporation of the Town of Pelham.

#### **4. Role of Council**

- 4.1. The role of Council is to provide effective and responsible government for the public in the Town in an open, accountable and transparent manner. There is a fiduciary relationship between Council and residents of the Town and between Council and the municipal corporation.
- 4.2. Council as a whole has the authority to provide direction to Staff; however, individual Members do not direct or oversee the administration of the Town or the functions of Staff.
- 4.3. Council as a whole approves budgets, policies, processes and governance of the Town through by-laws and resolutions. Individual Members do not have authority to act on behalf of Council unless authority has been delegated to the Member by Council or in law.
- 4.4. Neither Council as a whole nor its individual Members are Staff of the Town.

#### **5. Role of Staff**

- 5.1. The role of Staff is to serve Council and to work for the Town as a corporate body, under the direction of the CAO.



- 5.2. Staff provide advice and make policy recommendations in accordance with their applicable professional ethics, expertise and obligations. Staff carry out their duties with political neutrality and without influence from individual Members.
- 5.3. Staff will direct inquiries from Members to the CAO or appropriate senior Staff as directed by the CAO.

## **6. General Obligations of Members**

- 6.1. Members shall serve and be seen to serve the public in a conscientious and diligent manner.
- 6.2. Members shall perform their Official Duties with integrity, accountability and transparency and shall avoid the improper use of the influence of their office and conflicts of interest, both apparent and real.
- 6.3. Members shall not extend favour or preferential treatment in the discharge of their Official Duties to Family Members or to organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest.
- 6.4. Members shall perform their Official Duties in a manner that promotes public confidence and will bear public scrutiny.
- 6.5. Members shall be cognizant that they are at all times representatives of the Town and of Council or a Local Board, as the case may be. Members shall recognize the importance of their Official Duties, take into account the public character of their function and maintain and promote public trust in the Town.
- 6.6. Members shall accurately and adequately communicate decisions of Council, even if they disagree with a decision, so as to foster respect for the decision-making processes of Council.
- 6.7. Members shall refrain from making statements that they know or ought to know are false or with the intent to mislead Council or the public.
- 6.8. Members shall refrain from making disparaging comments about any other Member(s) or unfounded accusations about the conduct or motives of any other Member(s).
- 6.9. Members shall respect the individual rights, values and beliefs of any other person, including members of the public, Staff and Members.



- 6.10. Members shall treat all members of the public, other Members and Staff with respect and without abuse, bullying, violence or intimidation and shall make reasonable efforts to ensure that the Town's work environment is free from discrimination, harassment and violence.
- 6.11. Members shall endeavour to work in a collective and cooperative manner to address matters brought to Council, including to consider, deliberate, make decisions and provide direction to Staff.
- 6.12. Members shall seek to serve the public interest by upholding both the letter and the spirit of laws and policies established by the Government of Canada, the Government of Ontario and the Town.
- 6.13. Members shall conduct themselves in accordance with this Code of Conduct and other sources of applicable law, including but not limited to:
- i. *Municipal Act, 2001*;
  - ii. *MClA*;
  - iii. *MEA*;
  - iv. *MFIPPA*;
  - v. *Ontario Human Rights Code*, R.S.O. 1990, c. H.19 ("*Human Rights Code*");
  - vi. *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sched. 6;
  - vii. *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 ("*Occupational Health and Safety Act*");
  - viii. *Provincial Offences Act*, R.S.O. 1990, c. P.33;
  - ix. *Criminal Code of Canada*, R.S.C. c. C-46; and
  - x. By-laws, policies and procedures of the Town as adopted and amended by Council from time to time that are applicable to Council.
- 6.14. Members shall comply with the procedural by-law of the Town as adopted, amended or replaced from time to time, which governs the conduct of Members during meetings of Council, and shall conduct themselves in a civil manner and with decorum at meetings of Council and all other meetings.

## **7. Member Obligations in Relation to Staff**

- 7.1. Members shall respect the role of Staff in the administration of the business affairs of the Town, as set out in section 5 of this Code of Conduct, and shall not attempt to influence Staff in the performance of their duties.



- 7.2. No Member shall maliciously, falsely, negligently, recklessly or otherwise improperly injure the professional or ethical reputation, or the prospects or practice, of any member of Staff.
- 7.3. No Member shall make disparaging comments or publicly criticize Staff. If a Member has a concern or complaint about a member of Staff, the Member shall refer the matter to the CAO, who shall review the concern or complaint and take appropriate action.
- 7.4. No Member shall request, expect or attempt to compel any member of Staff to engage in any partisan political activity or subject any member of Staff to threat, discrimination or reprisal for refusing to do so.
- 7.5. No Member shall use or attempt to use the Member's authority or influence for the purpose of intimidating, threatening, coercing or otherwise improperly influencing any member of Staff with the intent of interfering with his or her duties, including the duty to disclose improper activity.
- 7.6. Members shall comply with the *Human Rights Code*, the *Occupational Health and Safety Act* and related Town policies, including but not limited to Policy No. S201-21, Council-Staff Relations, and Policy No. S101-16, Workplace Violence, Harassment and Discrimination Policy.

## **8. Election Activity**

- 8.1. Members shall comply with the *MEA* and related Town policies, including but not limited to Policy No. S201-11, Use of Corporate Resources for Election Purposes.
- 8.2. Members shall not use Town facilities, equipment, supplies, services, Staff or other resources for election-related activity, including a Member's campaign or any other election campaigns for municipal, provincial or federal office.
- 8.3. During the Election Period, Incidental Personal Use that would otherwise be permitted under this Code of Conduct is prohibited.

## **9. Town Assets and Equipment**

- 9.1. Council is the custodian of the assets of the Town. The public places its trust in Council to make decisions for the public good in relation to those assets.
- 9.2. Members shall not use or permit the use of Town land, facilities, equipment, supplies, services, technology, Staff or other resources for activities other than carrying out Official Duties.



9.3. Notwithstanding section 9.2, Incidental Personal Use is permitted; however, Members shall reimburse the Town for any expenses incurred for Incidental Personal Use.

9.4. Members shall not seek financial gain for themselves, Family Members or friends from the use or sale of Town-owned intellectual property, computer programs, technological innovations or other items that have been or are capable of being patented, trademarked and/or copyrighted by the Town.

## **10. Social Media**

10.1. Subject to section 10.2, Members are permitted and encouraged to access, engage and interact with the Town's official Social Media.

10.2. When accessing, engaging and/or interacting with the Town's official Social Media, Members shall at all times adhere to any and all Town policies for Social Media use and shall always identify themselves with no attempt to conceal or mislead as to their identity or their status as an elected representative of the Town.

## **11. Gifts and Benefits**

11.1. Gifts or Benefits to Members risk the appearance of improper influence and may create a real or perceived incentive for Members to make decisions on the basis of relationships rather than the best interests of the Town.

11.2. In order to avoid any appearance of improper influence or incentive, no Member shall accept a Gift or Benefit that is connected, directly or indirectly, to the performance of their Official Duties. Similarly, no Member shall accept a Gift or Benefit that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or where the Gift or Benefit is related to a public function, would exceed what a reasonable member of the public would consider to be appropriate in the circumstances.

11.3. A Gift or Benefit provided with the Member's knowledge to a Family Member, an employee of the Member, any other person related to the Member or to any other person, corporation or body with which the Member is associated, and that is connected, directly or indirectly, to the fact or performance of the Member's Official Duties, is deemed to be a Gift or Benefit to the Member.

11.4. Any doubt concerning the propriety of a Gift or Benefit should be resolved by the Member not accepting the Gift or Benefit.

11.5. Notwithstanding sections 11.2 and 11.3, Members are not precluded by this Code of Conduct from accepting:



- i. compensation authorized by law;
- ii. Gifts or Benefits that normally accompany the duties of office and are received as an incident of protocol or social obligation;
- iii. a political contribution that is accepted and reported in accordance with applicable law;
- iv. services that are provided without compensation by persons volunteering their time;
- v. a suitable memento of a function honouring the Member;
- vi. admission to a widely-attended event, such as a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception or similar event, offered by the entity responsible for organizing and presenting the event and unsolicited by the Member, if attending or participating in the Member's official capacity as a Member, including:
  - a. participation as a speaker or panel participant by presenting information related to Town matters;
  - b. performance of a ceremonial function appropriate to the Member's office; and/or
  - c. attendance at an event that is appropriate to the official capacity of the Member;
- vii. admission to a charity or community organization event, for whose benefit the event is being held, and unsolicited by the Member;
- viii. admission to a training or education program, including meals and refreshments furnished to all attendees, if such training or education is related to the Member's official duties and in the interests of the Town;
- ix. food, lodging, transportation and entertainment provided by federal, provincial, regional and local governments or agencies or subdivisions of them or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;
- x. entrance fees or food and beverages consumed at banquets, receptions or similar events, if:
  - a. attendance serves a legitimate municipal business purpose related to the normal business of the Town;
  - b. the person that extends the invitation or a representative of the person's organization is in attendance; and
  - c. the value is reasonable and the invitations are infrequent;





- xi. Gifts or Benefits of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and
- xii. any Gift or Benefit, if the Integrity Commissioner is of the opinion, before it has been accepted by the Member, that it is unlikely that receipt of the Gift or Benefit gives rise to a reasonable presumption that it was given in order to influence the Member in the performance of their Official Duties.

11.6. A Member who has received and accepted a Gift or Benefit with an estimated value of fifty dollars (\$50.00) or more shall file a written disclosure of the Gift or Benefit with the Town Clerk indicating the person, organization or entity from which it was received together with the estimated value.

11.7. All disclosure statements filed or required to be filed under section 11.6 shall be a matter of public record and made available to the public in accordance with *MFIPPA* and all applicable Town policies and procedures.

## 12. Confidential Information

12.1. Members receive Confidential Information in the course of their Official Duties, including information provided in confidence to the Town that falls under *MFIPPA* and information received during closed meetings of Council.

12.2. Members shall not collect, use or disclose Confidential Information except in accordance with applicable legislation including the *Municipal Act, 2001* and *MFIPPA* and all applicable Town by-laws, policies and procedures, even if the Member ceases to be a Member of Council or a Local Board.

12.3. Members shall comply with the *Municipal Act, 2001*, *MCIA*, *MFIPPA* and any other applicable legislation regarding open meetings, accountability and transparency.

12.4. Notwithstanding section 12.3, Members shall hold in strict confidence all Confidential Information concerning matters dealt with any meeting closed to the public under the *Municipal Act, 2001* or other legislation.

12.5. For the purposes of section 12.4, Confidential Information includes, but is not limited to documents, records, advice, information, discussion, deliberation and direction. Members shall not, directly or indirectly, release, disclose, make public or in any way divulge Confidential Information to any person unless authorized by Council to do so or as required by law.

12.6. Members shall not, directly or indirectly, release, disclose, make public or in any way divulge information that is subject to solicitor-client privilege, unless solicitor-client privilege has been expressly waived by Council or as required by law.



12.7. Members are only entitled to information in the possession of the Town that is relevant to matters before Council or a Local Board to which the Member is appointed. Otherwise, Members enjoy the same access rights to information as any other member of the public and must follow the same processes as any third party to obtain such information.

### **13. Improper Use of Influence**

- 13.1. Members shall not use the influence of their office or appointment for any purpose other than the performance of the Member's Official Duties in the public interest.
- 13.2. Members shall not use the status or influence of their office or appointment to influence the decision of another person to the Non-Pecuniary Interest of the Member or a Family Member, or for the purpose of creating a disadvantage to another person.
- 13.3. Members shall not hold out the prospect or promise of future advantage through or related to the status or influence of their office or appointment in return for any action, inaction, decision or vote.
- 13.4. Members who are asked to support charitable activity within the Town may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. At all times, however, Members shall ensure that the requested support does not conflict with their Official Duties and does not give rise to a conflict between any private interest of the Member and their obligations to the public.
- 13.5. Members may, if requested, solicit funds on behalf of a charitable event or organization (including the Town), provided that the request to solicit funds does not conflict with their Official Duties and does not give rise to a conflict between any private interest of the Member and their obligations to the public.
- 13.6. When soliciting funds in accordance with section 13.5, Members shall disclose the name of the charitable event or organization and the purpose for which the funds are requested.

### **14. Conflicts of Interest**

- 14.1. Members shall take appropriate and proactive steps to avoid or mitigate conflicts of interest, both apparent and real, in order to maintain public confidence in the Town and its elected and appointed officials.



14.2. Members authorized by the *Municipal Act, 2001* to consult the Integrity Commissioner are encouraged to consult the Integrity Commissioner and/or seek legal advice when they become aware that they may have a conflict or potential conflict between any private interest, Non-Pecuniary Interest or other personal interest, and their duties to the public.

## **15. Code of Conduct**

15.1. Members shall adhere to all requirements of this Code of Conduct and shall respect the process for Complaints made under this Code of Conduct or through any process for complaints adopted by the Town, including but not limited to the Complaint Protocol.

15.2. As part of their adherence to this Code of Conduct and their respect for the Complaint process, Members who observe, witness or otherwise become aware of a contravention of this Code of Conduct by another Member are under a positive obligation to submit a Complaint.

## **16. Integrity Commissioner**

16.1. Members shall not obstruct the Integrity Commissioner in the conduct of his or her duties and responsibilities. For greater certainty, obstruction includes any conduct that is contrary to or prohibited by sections 16.2, 16.3, 16.4 and 16.5 of this Code of Conduct.

16.2. Members shall not act in reprisal or threaten reprisal against a person who makes a Complaint or provides information to the Integrity Commissioner during an investigation.

16.3. Members shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under his or her direction.

16.4. Members shall cooperate with requests for information from the Integrity Commissioner and any person acting under his or her direction during any investigations or inquiries under this Code of Conduct.

16.5. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a Complaint has been made under this Code of Conduct or any process for Complaints adopted by the Town.



## **17. Penalties for Non-Compliance with Code of Conduct**

- 17.1. Following an investigation of a Complaint, including any Complaint found to be Frivolous or Vexatious, the Integrity Commissioner shall provide a final report to the Town Clerk. Council shall consider the report within thirty (30) days of receipt by the Town Clerk and, subject to sections 17.2, 17.3, 17.4 and 17.5, shall take such action as it considers appropriate with regard to the recommendation(s) of the Integrity Commissioner.
- 17.2. Where Council receives a final report from the Integrity Commissioner that there has been a violation of this Code of Conduct and recommends that a penalty be imposed, Council may impose the recommended penalty or, in accordance with section 223.4(5) of the *Municipal Act, 2001* may impose either:
  - i. a reprimand; or
  - ii. a suspension of the remuneration paid to the Member for a period of up to ninety (90) days.
- 17.3. Where Council imposes a penalty under section 223.4(5) of the *Municipal Act, 2001* that differs from the recommendation(s) made by the Integrity Commissioner, Council shall provide reasons for its decision.
- 17.4. The Integrity Commissioner may also recommend that Council impose one or more of the following sanctions:
  - i. provide a written or verbal apology;
  - ii. return property or make reimbursement of its value or of monies spent;
  - iii. removal from membership of a Committee of Council; and/or
  - iv. removal as Chair of a Committee of Council.
- 17.5. Council may not impose any of the sanctions set out in section 17.4 in the absence of a recommendation from the Integrity Commissioner.

## **18. Complaint Protocol**

- 18.1. The procedure for Complaints under this Code of Conduct shall be governed by the Complaint Protocol.