

THE CORPORATION OF THE MUNICIPALITY  
OF NORTHERN BRUCE PENINSULA

BY-LAW NO. 2018-47

BEING A BY-LAW TO ESTABLISH A CODE OF CONDUCT  
FOR THE MEMBERS OF THE COUNCIL  
OF THE MUNICIPALITY OF NORTHERN BRUCE PENINSULA

WHEREAS Section 223.2 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality may establish codes of conduct for members of council of the municipality and of local boards of the municipality;

AND WHEREAS the Council of the Corporation of the Municipality of Northern Bruce Peninsula considers it appropriate and proper to establish a code of conduct and to enact a by-law in this regard;

The Council for the Corporation of the Municipality of Northern Bruce Peninsula hereby enacts as follows:

1. THAT the Code of Conduct, attached hereto as Schedule A, is hereby adopted.
2. THAT Schedule A forms part of this By-law.
3. THAT By-law No. 2018-04 and any amendments thereto shall be rescinded.
4. THAT this By-law shall come into force and take effect immediately upon the final passing thereof.

READ A FIRST AND SECOND TIME THIS 28<sup>th</sup> DAY OF MAY, 2018.

READ A THIRD TIME, FINALLY PASSED, SIGNED AND SEALED THIS 28<sup>th</sup> DAY OF MAY, 2018.



MAYOR – Milt McIver



DEPUTY CLERK – ~~Mary Lynn Standen~~ Cathy Addison





# Code of Conduct

(Schedule A to By-law No. 2018-47)

## 1. COVERAGE

This Code of Conduct applies to all Members of the Council of the Corporation of the Municipality of Northern Bruce Peninsula and members of Committees of the Corporation of the Municipality of Northern Bruce Peninsula including members of the public appointed to Committees as representatives acting on behalf of the Municipality of Northern Bruce Peninsula. It is the responsibility of all members to be aware and comply with this Code of Conduct and all other policies adopted by the Council of the Municipality of Northern Bruce Peninsula.

## 2. PURPOSE

The Council of the Corporation of the Municipality of Northern Bruce Peninsula is committed to achieving the highest standard of conduct in its actions which is essential to maintaining and ensuring public trust and confidence in decision-making and operations. The Municipality of Northern Bruce Peninsula Members of Council shall act in an accountable and responsible manner with integrity and fairness.

## 3. DEFINITIONS

"Clerk" means an employee authorized to act as the Clerk of the Municipality of Northern Bruce Peninsula.

"Child" has the same meaning as defined in the Municipal Conflict of Interest Act.

"Closed Session Meeting" means a meeting or part of a meeting not open to the public in accordance with the Municipal Act, 2001, S.O. 2001, c.25, as amended.

"Code" means this Code of Conduct as it applies to all Members of the Council of the Corporation of the Municipality of Northern Bruce Peninsula and members of Committees of the Corporation of the Municipality of Northern Bruce Peninsula including members of the public appointed to Committees as representatives acting on behalf of the Municipality of Northern Bruce Peninsula.

"Complaint" means an alleged contravention of this Code of Conduct.

"Confidential information" includes information in the possession of or received in confidence by the Municipality that the Municipality is either prohibited from disclosing, or is required to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is subject to solicitor-client privilege and information that it is personal information. Confidential information includes but is not limited to information that is: disclosed or discussed at a Closed Session meeting of Council or committee, circulated to members of Council and marked "Confidential", and given verbally in confidence in preparation for or following a meeting that is closed to the public.

"Council" means the Council of the Corporation of the Municipality of Northern Bruce Peninsula.

"Frivolous" means something that is not worthy of serious consideration or that is of little or no importance due to its lack of seriousness or sense.

"Gifts and Benefits" means any cash or monetary equivalent, fee, object of value, service, travel and accommodation or entertainment.

"Hospitality" means instances where there is entertainment of Council, or by outside parties, for the furtherance of Municipal business.

**"Integrity Commissioner"** means the person appointed by Council to provide independent and consistent complaint investigation and resolution services respecting the application of the Code of Conduct.

**"Member"** means a Member of Council including the Mayor.

**"Municipal Property"** means items, services or resources which are the property of the Municipality, including but not limited to materials, equipment, facilities, technology, Municipally-developed computer programs or technological innovations, databases, intellectual property and supplies.

**"Municipality"** means the Corporation of the Municipality of Northern Bruce Peninsula.

**"Office"** means the authority and duties attached to the position of being an elected member.

**"Parent"** has the same meaning as defined in the Municipal Conflict of Interest Act.

**"Spouse"** has the same meaning as defined in the Municipal Conflict of Interest Act.

**"Staff"** means all full time and part time persons hired by the Municipality including the Chief Administrative Officer, Managers, Supervisors, Salaried Employees, Administrative Staff, contract and temporary employees, students and co-op placement staff.

**"Vexatious"** means without reasonable or probable cause or excuse.

#### **4. GENERAL INTEGRITY**

- 4.1** Members are committed to performing their functions with integrity, accountability and transparency.
- 4.2** Members are responsible for complying with all applicable legislation, by-laws and policies that pertain to their positions as elected officials.
- 4.3** Members recognize that the public has a right to open government and transparent decision-making.
- 4.4** Members shall, at all times, serve and be seen to serve the interests of their constituents and the Municipality in a conscientious and diligent manner and shall approach decision-making with open minds.
- 4.5** Members will conduct their dealings with each other in ways that maintain public confidence in the position to which they have been elected and appointed.
- 4.6** Members will be open and honest, focus on issues rather than personalities and avoid aggressive, offensive or abusive conduct.
- 4.7** Members shall refrain from making disparaging remarks about other Members of Council, Staff, members of the public and/or Council decisions.
- 4.8** Members shall avoid the improper use of the influence of their offices and shall avoid conflicts of interest both apparent and real.
- 4.9** Members shall not extend, in the discharge of their official duties, preferential treatment to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was solely for the purpose of advancing a private or personal interest.
- 4.10** For greater clarity, this Code of Conduct does not prohibit Members from properly using their influence on behalf of constituents.
- 4.11** In accordance with both the Municipal Act and Municipal Conflict of Interest Act, every Member shall exercise his/her power and discharge his/her official duties pursuant to the following guiding principles:
  - a)** seek to advance the common good of the Municipality
  - b)** exercise care, diligence and skill that a reasonable person would exercise in similar circumstances



- c) exercise his/her powers only for the purposes for which they were intended
- d) truly, faithfully and impartially exercise his/her office to the best of his/her knowledge and ability

## 5. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS

Members shall conduct themselves with decorum at all Council and Committee meetings in accordance with the provisions of the Municipality's Procedural By-law.

## 6. DISCRIMINATION AND HARASSMENT

All Members have a duty to treat members of the public, one another and Staff with respect and without abuse, bullying and/or intimidation and to ensure that the work environment is free from discrimination and harassment. The Ontario Human Rights Code shall be applied and, where applicable, the Municipality's Corporate Policy and Procedure No. 9.

## 7. CONDUCT RESPECTING STAFF

- 7.1 Members shall acknowledge the fact that staff work for the Municipality as a corporate body and are charged with making recommendations that reflect their professional expertise and corporate objectives. Council has the authority to approve the budget, policy, governance and other such matters. Under the direction of the Chief Administrative Officer, Staff serves Council as a whole and the combined interests of all Members as evidenced through the decisions of Council as recorded in the minutes and resolutions.
- 7.2 Members shall acknowledge and respect the fact that Staff carry out Council's directions as a whole and administer the policies of the Municipality and are required to do so without any undue influence from any individual Member or group of Members.
- 7.3 Members shall refrain from publicly criticizing individual members of Staff in a way that casts aspersions on their professional competence and credibility. The role of Staff is to provide advice and service based on political neutrality, objectivity and professional judgment which may not necessarily reflect the opinion or position of a single Member of Council.
- 7.4 Members of Council have no individual capacity to direct Staff to perform specific functions. Inquiries of Staff from Members of Council should be directed to the Chief Administrative Officer or the appropriate Manager/Supervisor.
- 7.5 The Municipal Act sets out the roles of Members of Council and Municipal administration including specific roles for statutory officers such as the Chief Administrative Officer, Clerk, Treasurer and the Integrity Commissioner.
- 7.6 Members of Council are expected to:
  - a) represent the public and to consider the well-being and interests of the Municipality
  - b) develop and evaluate policies and programs of the Municipality
  - c) determine which services the Municipality provides
  - d) ensure the administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council
  - e) ensure the accountability and transparency of the Municipality's operations including the activities of the senior management of the Municipality
  - f) maintain the financial integrity of the Municipality
  - g) carry out the duties of Council under the Municipal Act or any other Act.
- 7.7 Municipal staff is expected to:
  - a) implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions
  - b) undertake research and provide advice to Council on the policies and programs of the Municipality
  - c) carry out any other duties required under the Municipal Act or any other Act and other duties assigned by the Municipality.
- 7.8 Members shall be respectful of the role of Staff to provide advice based on political neutrality, professional judgment and objectivity.

**7.9 Members should not:**

- a) maliciously or falsely injure the professional or ethical reputation or the prospects or practices of staff
- b) compel staff to engage in partisan political activities or be subjected to threats and/or discrimination for refusing to engage in such activities
- c) use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in Staff's duties.

**8. IMPROPER USE OF INFLUENCE**

- 8.1 As elected officials, members are expected to perform the duties of their office with integrity, accountability and transparency.
- 8.2 Members should not use the status of their position to influence the decision of another individual to the private advantage of oneself, one's parents, children, spouse, staff members, friends or business or other associates.
- 8.3 In the same manner and as outlined in the Provincial Offences Act, members shall not attempt to influence or interfere, either directly or indirectly, financially, politically or otherwise, with employees, officers or other persons performing duties under the Provincial Offences Act.

**9. USE OF MUNICIPAL PROPERTY AND RESOURCES**

- 9.1 Members have access to Municipal resources such as property, equipment, services, Staff and supplies in order to fulfill their roles as elected representatives.
- 9.2 No member shall use or permit the use of Municipal property, equipment, services, Staff or other resources (such as the Municipal website) for any activity other than purposes connected with the discharge of Council duties or Council business.
- 9.3 No member shall obtain financial gain from the use or sale of Municipally-developed intellectual property, computer programs, technological innovations or other kinds of property while he/she is an elected official or thereafter.

**10. CONDUCT RESPECTING LOBBYING**

Members, as elected representatives, are often approached by various individuals attempting to influence Council decisions. While lobbying is an accepted practice, Council Members must be aware that it is their responsibility to make decisions based on an impartial and objective assessment of each situation.

**11. GIFTS, BENEFITS AND HOSPITALITY**

- 11.1 Members are expected to represent the public and the interests of the Municipality and to do so with impartiality and objectivity. The acceptance of a gift, benefit or hospitality can imply favouritism, bias or influence on the part of the member. At times, the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of an elected official and his/her representative role of the Municipality.
- 11.2 Members shall not accept gifts that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence or otherwise to go beyond the necessary and appropriate public functions involved. For these purposes, a gift, benefit or hospitality provided with the member's knowledge to a member's spouse, child or parent that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.
- 11.3 Members are not precluded from accepting:
  - a) personal gifts, benefits, rewards, commissions or advantages from any person or organization which are wholly unconnected with the performance of the member as an elected representative

- b) political contributions that are otherwise offered, accepted and reported in accordance with applicable law
- c) services provided without compensation by persons volunteering their time
- d) invitations from charity or not-for-profit organizations to attend their events
- e) communication to a Member including subscriptions to newspaper and periodicals
- f) gifts of a nominal value (eg. baseball hat, tee shirt, book, or similar)
- g) food and beverages at banquets, receptions, ceremonies or similar events
- h) a memento received by a Member of Council at a function honouring the member
- i) a memento received as a result of being a speaker, participant or representative of the Municipality at the event
- j) gifts or benefits received as a result of social protocol, customs or social obligations that normally accompany the performance of official duties
- k) food, lodging, transportation and entertainment provided by other levels of government or other local governments, boards or commissions
- l) sponsorships and donations for community events organized or operated by a member or a third party on behalf of a Member

11.4 It is recognized that the extension and acceptance of forms of hospitality, including invitations to events, outings, engagements, performances, etc., is within the activity scope of a Member. Any hospitality should fall within the following parameters:

- a) Members do not allow themselves to reach a position whereby they might be, or be deemed by others to have been, influenced in making a decision as a consequence of the offering or acceptance of such hospitality
- b) it serves a legitimate business purpose related to the responsibilities of the Member
- c) the person extending the invitation or a representative of the organization is in attendance
- d) the value and frequency is reasonable

11.5 Members shall return any gifts or benefits or not accept hospitality which does not comply with this Code of Conduct along with an explanation to the donor as to why the gifts, benefits or hospitality cannot be accepted.

## 12. ELECTION-RELATED ACTIVITY

Members are required to conduct themselves in accordance with the Municipal Elections Act, 1996, as amended. The use of Municipal resources, both actual Municipal property and staff, for election-related activity is strictly prohibited. The prohibition applies to both the promotion and opposition to the candidacy of a person for elected office. Election-related activity applies not only to a Member's personal campaign for office but also other campaigns for Municipal, Provincial and/or Federal office.

## 13. CONFIDENTIAL INFORMATION

No member shall disclose or release, by any means, to any member of the public, any confidential information acquired by virtue of his/her office, in either oral or written form, except as required by law or if authorized by Council resolution to do so.

Members shall not use confidential information, including information that they have knowledge or by virtue of their office, in either oral or written form, except as required by law or if authorized by Council resolution to do so.

Members shall not, either directly or indirectly, release, make public or in any way disclose any information received during closed session meetings or the substance of closed session deliberations including memorandums, documents or staff reports that are distributed for consideration during the closed session meeting until Council or the committee discusses the information at a meeting that is open to the public or releases the information to the public.

Members of Council shall not access or attempt to gain access to confidential information in the custody of the Municipality unless it is necessary for the performance of their duties and not prohibited by Council policy.

Members are only entitled to information in the possession of the Municipality that is relevant to matters before Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen.



## **14. COMPLIANCE WITH THE CODE OF CONDUCT**

- 14.1** Members are expected to adhere to the provisions of the Code of Conduct.
- 14.2** Where Council has received a report from its Integrity Commissioner that, in his/her opinion, there has been a violation of the Code of Conduct, the Municipal Act, 2001, R.S.O. 2001, c. 25, as amended, provides Council with authority to impose the following sanctions:
- a) a reprimand
  - b) suspension of the remuneration paid to the member in respect of his/her services as a member of council or local board, as the case may be, for a period of up to ninety (90) days

## **15. ENFORCEMENT OF THE CODE OF CONDUCT – INTEGRITY COMMISSIONER**

- 15.1** The Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code of Conduct.
- 15.2** Any person, including members of the public, Municipal employees and members of Council who has reasonable grounds to believe that a member has breached a provision of the Code of Conduct, may proceed with a complaint.
- 15.3** Complaints must be submitted within six (6) weeks of the matter becoming known to the individual and no more than six (6) months after the alleged violation occurred. No action will be taken on a complaint occurring outside these deadlines.
- 15.4** A complainant may wish to pursue the informal complaint process as established by this Code of Conduct but is not required to do so prior to proceeding with the formal complaint process set out herein.
- 15.5** No member shall obstruct the Integrity Commissioner while carrying out his/her responsibilities.
- 15.6** Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is prohibited.

## **16. DUTIES OF THE INTEGRITY COMMISSIONER**

Duties of the Integrity Commissioner are established by way of By-law No. 2018-03, being a by-law to establish the office of Integrity Commissioner and to establish a complaint process regarding elected officials.

## **17. PROCEDURE – INFORMAL COMPLAINT**

Any individual who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code of Conduct may address his/her concerns in the following manner:

- a) advise the Member that his/her behaviour or activity contravenes the Code of Conduct
- b) encourage the Member to stop the prohibited behaviour or activity
- c) confirm to the Member either satisfaction or dissatisfaction with his/her response to the concern identified, if applicable
- d) keep a written record of the incident(s) including date(s), time(s), location(s), other person(s) present and any other relevant information including steps taken to resolve the matter
- e) if not satisfied with the response received from the Member through the informal process, an individual may proceed with the formal complaint procedure through the Integrity Commissioner as set out in Section 17 of this document

## **18. PROCEDURE – FORMAL COMPLAINT**

Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code of Conduct may address his/her concerns in the following manner:

- a) all formal complaints must be submitted on Appendix B of the Code of Conduct, dated, signed by the complainant and commissioned accordingly



- b) the complaint must include an explanation as to why the issue raised may be a contravention of the Code of Conduct and any evidence in support of the allegation must be included with Appendix B
- c) any witnesses in support of the allegation must be identified in Appendix B
- d) Appendix B must include the name of the Member alleged to have breached the Code of Conduct, the section of the Code of Conduct allegedly contravened, the date, time and location of the alleged contravention and any other information as requested on Appendix B
- e) the complaint shall be filed with the Clerk who will ensure that the information provided on Appendix B is complete and he/she will then forward the complaint, without comment, to the Integrity Commissioner for consideration on a forthwith basis
- f) it is acknowledged that the Integrity Commissioner may request additional information from the complainant

#### 19. PROCEDURE – REQUEST FOR ADVICE

- g) A Member of Council may request that the Integrity Commissioner provide advice and rulings on ethical obligations and responsibilities under the Code of Conduct and any other procedures, rules or policies governing a Member's ethical behaviour. The Member shall submit the completed request on Appendix A – Request for Advice Form, attached hereto and forming part of this By-law and file same with the Clerk who will ensure that the information provided on Appendix A is complete and the Clerk will then forward the complaint, without comment, to the Integrity Commissioner for consideration on a forthwith basis. The Integrity Commissioner shall provide his/her response to the Member in writing.

#### 20. REFUSAL TO CONDUCT INVESTIGATION

- 20.1 If the Integrity Commissioner is of the opinion that the referral of a matter to him/her is frivolous, vexatious, not made in good faith or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or where this becomes apparent in the course of the investigation, terminate the investigation.
- 20.2 Other than in exceptional circumstances, the Integrity Commissioner will not report to Council on any complaint described above, except as part of an annual or other periodic report.

#### 21. RESPONSE TO COMPLAINT OUTSIDE OF THE JURISDICTION OF THE INTEGRITY COMMISSIONER

- 21.1 If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to non-compliance with the Code of Conduct, the Integrity Commissioner shall advise the complainant in writing as follows:
  - a) Criminal matter – if the complaint is an allegation of a criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that pursuit of such an allegation must be undertaken by the Ontario Provincial Police (OPP)
  - b) Municipal Conflict of Interest – if the complaint is an allegation with respect to matters governed by the Municipal Conflict of Interest Act, the complainant shall be advised to review the matter with his/her own legal counsel
  - c) Municipal Freedom of Information and Protection of Privacy (MFIPPA) – if the complaint is more appropriately addressed under MFIPPA, the complainant shall be referred to the Clerk.
- 21.2 If the matter is covered by any other Municipal policies or legislation, the complainant will be advised and directed to proceed in a manner that is considered appropriate by the Integrity Commissioner.

#### 22. GENERAL PROVISIONS

Appendix A – Request for Advice Form  
Appendix B – Formal Complaint Form/Affidavit







---

---

This Affidavit is made for the sole purpose of requesting that this matter be reviewed by the Integrity Commissioner.

Sworn before me at \_\_\_\_\_

\_\_\_\_\_  
(city, town, etc.)

in the County of \_\_\_\_\_

in the Province of Ontario on \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_.

}  
}  
}  
}  
}  
}  
}  
}

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Commissioner  
(A Commissioner for taking affidavits, etc.)

**NOTE:** Signing a false affidavit may expose you to prosecution under Sections 131, 132 and/or 134 of the Criminal Code of Canada, R.S.C. 1985, c. C-46 and also to civil liability for defamation.