

**Code of Conduct
for Municipal Elected Officials**



Title

1. The title of this code of conduct is the *Code of Conduct for Elected officials of the Municipality of Colchester*.

Definitions

2. In this Code, the following definitions apply:

"Act" means the *Municipal Government Act*; "CAO" means chief administrative officer;

"clerk" means the clerk of the municipality;

"closely connected" to a council member, means any of the following:

- (i) a family member of the council member,
- (ii) an agent of the council member,
- (iii) a business partner of the council member,
- (iv) an employer of the council member;

"Code" means the *Code of Conduct for Elected officials of the Municipality of Colchester*;

"complaint" means a complaint regarding an alleged breach of the Code;

"confidential information" includes any information in the possession of the municipality that the municipality is prohibited from disclosing pursuant to legislation, court order or by contract, or is required to refuse to disclose under Part XX of the Act or other legislation, or that pertains to the business of the municipality and is generally considered to be of a confidential nature, including information about any of the following:

- (i) the security of the municipality's property,
- (ii) a proposed or pending acquisition or disposition of land or other property,
- (iii) a tender that has or will be issued but that has not been awarded,
- (iv) contract negotiations,
- (v) employment and labour relations,
- (vi) draft documents and legal instruments, including reports, policies, bylaws and resolutions, that have not been deliberated in a meeting open to the public,

- (vii) law enforcement matters,
- (viii) litigation or potential litigation, including matters before administrative tribunals,
- (ix) advice that solicitor-client privileged;

"council" means the council of the municipality;

"discrimination" has the same meaning as in the *Human Rights Act*;

"elected official" means any council member, including the mayor or warden;

"family member" means in relation to a person, any of the following, and includes a step-family member:

- (i) spouse,
- (ii) parent or guardian,
- (iii) child,
- (iv) sibling,
- (v) sibling of a parent,
- (vi) child of a sibling,
- (vii) grandchild,
- (viii) grandparent,
- (ix) parent-in-law,
- (x) sibling-in-law,
- (xi) spouse of a child;

"harass" has the same meaning as in the *Human Rights Act*;

"investigator" means a person or entity appointed by a municipality under subsection 23C(l) of the Act to receive and investigate complaints;

"mayor" means the council member elected at large to be the chair of the council;

"municipality" means the regional municipality, town or county or district municipality, except where the context otherwise requires;

"poisoned environment" means an environment where harassing or discriminatory conduct causes significant and unreasonable interference with a person's work environment;

"sexual harassment" has the same meaning as in the *Human Rights Act*;

"warden" means the council member chosen by the council to be the chair of the council.

General purpose

3.

- (1) The purpose of this Code is to set out the expectations for the behaviour of members elected to council in carrying out their functions and making decisions that benefit the constituents in their municipality.
- (2) Nothing in this Code is intended to prevent elected officials from sharing or expressing dissenting opinions.

Interaction with laws and policies

4.

- (1) This Code is intended to operate together with, and as a supplement to, the applicable common law, the *Criminal Code of Canada*, the Act, the *Municipal Conflict of Interest Act* and any other applicable legislation.
- (2) This Code is intended to operate together with, and as a supplement to, the other by-laws and policies of a municipality.
- (3) This Code prevails in any conflict between the Code and any municipal resolution, policy or bylaw.

Guiding principles

5. All of the following are the guiding principles for council members' conduct:

Collegiality: council members must work together to further the best interests of the municipality in an honest and honourable way.

Respect: council members must demonstrate respect towards one another, the democratic decision-making process and the role of staff. Council members must not act in a manner that negatively impacts the municipality or tarnishes the municipality's reputation.

Integrity: council members must act lawfully and adhere to strong ethical principles by prioritizing the municipality's interests over individual interests.

Professionalism: council members must create and maintain an environment that is respectful and free from all forms of discrimination and harassment, including sexual harassment. Council members must show consideration for every person's values, beliefs and contributions, and support and encourage others to participate in council activities.

Transparency: council members must be truthful and open about their decisions and actions and make every effort to accurately communicate information openly to the public.

Responsibility: council members are responsible for the decisions that they make and must be held accountable for their actions and outcomes. Council members must

demonstrate awareness of their own conduct and consider how their words or actions may be perceived as offensive or demeaning.

General conduct

6.

- (1) A council member must be truthful and forthright and not deceive or knowingly mislead Council, the CAO, staff or the public.
- (2) A council member must show respect for chairs of council meetings, chairs of committee meetings, colleagues, staff and members of the public that present during council meetings or other meetings of the municipality.
- (3) A council member must adhere to the direction of the chairs of meetings with respect to rules of procedure.
- (4) A council member must conduct council business and all duties in an open and transparent manner, other than for those matters that council is authorized by law to carry out in private.
- (5) A council member must not be impaired by alcohol or drugs while attending any council meeting or other meeting of the municipality.
- (6) A council member must comply with any sanction imposed under this Code, and failing to comply with a sanction imposed is considered a breach of the Code.

Confidential information

7.

- (1) A council member must not disclose or release any confidential information to the public in oral, written or any other form, other than when required by policy or law or authorized by the council to do so.
- (2) A council member must not use confidential information for personal or private gain or for the private gain of any other person or entity.
- (3) A council member must not access or attempt to access confidential information in the custody of the municipality unless the information is necessary for the performance of their duties and its access is not prohibited by legislation or by the by-laws or policies of the municipality.
- (4) A council member must not discuss any matters relating to an active investigation under the Code with anyone other than the investigator or their own legal counsel, unless required by law.

Gifts and benefits

8.

- (1) A council member must not accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of their duties of office, other than the following exceptions:
 - (a) gifts or benefits that normally accompany the responsibilities of office and are

received as an incident of protocol or social obligation;

- (b) a suitable memento of a function honouring the council member;
 - (c) sponsorships and donations for community events organized or run by a council member or by a third party on behalf of a council member;
 - (d) compensation authorized by the municipality.
- (2) A fee, advance, cash, gift, gift certificate or personal benefit paid or provided to a person closely connected to a council member, with the council member's knowledge, is deemed to be a gift to the council member.

Use of municipal property, equipment and services

9.

- (1) A council member must not use, or request the use of, any municipal property, including surplus material or equipment, for personal convenience or profit, unless the property meets 1 of the following:
 - (a) it is generally available for use by the public and the council member is receiving no special preference in its use;
 - (b) it is made available to the council member in the course of carrying out
 - (c) council activities and duties, and is used for purposes connected with the discharge of municipal duties.
- (2) A council member must not obtain, or attempt to obtain, personal financial gain from the use or sale of intellectual property developed by the municipality.
- (3) A council member must not use information, or attempt to use information, gained in the course of their duties that is not available to the general public for any purposes other than carrying out their official duties.
- (4) A council member, or a person closely connected to a council member, must not tender on the sale of surplus municipal property, including old or extra equipment.

Building, development, planning, or procurement proposals before council

10. A council member must not solicit or accept support in any form from an individual, group or corporation with any building, development, planning or procurement proposal before council.

Improper use of influence

11. A council member must not use the influence of their office for any purpose other than for the exercise of their official duties.

Business relations

12.

- (1) A council member must not allow any prospect of their future employment by a person or entity to affect the performance of their duties to the municipality.

- (2) A council member must not borrow money from any person who regularly does business with the municipality, unless the person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.
- (3) A council member must not act as an agent of a person or entity before council or a committee of council or any agency, board or committee of the municipality.

Employment of persons closely connected to council members

13.

- (1) A council member must not attempt to influence any municipal employee to hire or promote a person closely connected to the member.
- (2) A council member must not make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any person closely connected to the member.

Fairness

14.

- (1) A council member must not give special consideration, treatment or advantage to any individual or entity beyond that which is given to all.
- (2) A council member must not give special consideration, treatment or advantage to an organization or group because the council member, or a person closely connected to the member, is involved with the organization or group.

Adherence to policies, procedures, bylaws and other laws

15.

- (1) Council members must adhere to all applicable federal and provincial legislation.
- (2) Council members must adhere to the procedures, resolutions, policies and bylaws of the municipality.
- (3) Council members must adhere to the expense and hospitality policy of the municipality.

Respect for council as a decision-making body

16.

- (1) A council member must abide by, and act in accordance with, any decision made by council, whether or not the member voted in favour of the decision.
- (2) A council member must not encourage non-compliance with any legislation, regulation, bylaw, resolution, policy or procedure.

Communicating on behalf of council

17.

- (1) A council member, other than the mayor or warden, must not claim to speak on behalf of council unless the council member is authorized to do so.
- (2) The mayor, warden or an individual designated by council may speak on behalf of council and must make every effort to convey the intent of council's decision accurately.

Interactions of council with staff and service providers

18.

- (1) A council member must respect the role of the CAO as head of the administrative branch of the municipality's government and must not involve themselves directly in the administration of the affairs of the municipality, including, without limitation, the administration of contracts.
- (2) A council member must not direct, or attempt to direct, the CAO or clerk other than through a direction provided by the council as a whole.
- (3) A council member must be respectful of the role of the CAO and municipal employees to advise based on political neutrality and objectivity and without undue influence from any individual member or group of the council.
- (4) A council member must not direct or influence, or attempt to direct or influence any municipal employees in the exercise of their duties or functions, unless council is fulfilling the responsibilities of the CAO under clause 29(a) of the Act, and unless council as a whole has provided direction regarding same.
- (5) If a CAO has been appointed under Section 28 of the Act, a council member must not direct municipal employees except through the CAO.
- (6) Contractors, tenderers, consultants or other service providers to the municipality must not be issued instructions by council members
 - (a) if a CAO has been appointed under Section 28 of the Act; or
 - (b) unless council is fulfilling the responsibilities of the CAO under clause 29(a) of the Act and council as a whole has provided direction regarding same.
- (7) A council member must not require or request that a municipal employee undertake personal chores or tasks for the member that are unrelated to municipal business.
- (8) A council member must not make public statements that are critical of specific or identifiable municipal employees or service providers.

Respectful interactions

19.

- (1) A council member must not engage in discrimination or harassment as prohibited by the *Human Rights Act*.
- (2) A council member must not sexually harass any person.
- (3) A council member must not engage in any discriminatory or harassing action or conduct, verbal or non-verbal, directed at 1 or more individuals or groups that creates a poisoned environment.

Reprisals

20. A council member must not undertake any act of reprisal or threaten reprisal against a complainant in a matter under this Code or any person providing relevant information in

relation to a matter under this Code.

Clerk's Annotation for Official Policy Book

Date of Notice to Council Members of Intent to Consider (7 days minimum): November 8, 2024

Date of Passage of Current Policy: November 25, 2024

I certify that this Policy was adopted by Council as indicated above.

Dan Troke
Municipal Clerk

December 11, 2024
Dated

Date approved: November 25, 2024

Schedule "A"

Regulations Respecting a Code of Conduct for Municipal Elected Officials made under Section 520 of Chapter 18 of the Acts of 1998, the *Municipal Government Act*

Interpretation

Citation

- 1 These regulations may be cited as the *Code of Conduct for Municipal Elected Officials Regulations*.

Definitions

- 2 In these regulations,

"Act" means the *Municipal Government Act*;

"complaint" means a complaint regarding an alleged breach of the code of conduct;

"elected official" means council member, mayor or warden;

"investigator" means a person or entity appointed by a municipality under subsection 23C(1) of the Act to receive and investigate complaints;

"model code of conduct" means the model code of conduct prescribed in Schedule "A".

Code of Conduct

Application

- 3 (1) The code of conduct referred to in these regulations is a code of conduct established under Section 23A of the Act.
- (2) The code of conduct applies to elected officials at all times and in all locations.

Adoption or code of conduct and notice to Minister

- 4 (1) A municipality must adopt the model code of conduct on or before December 19,

2024.

- (2) A municipality must report to the Minister and provide a notice confirming adoption of the model code of conduct on or before December 19, 2024.

When code of conduct applies

- 5 (1) The code of conduct applies to each council member from the time that they are declared elected until the earliest of the following:
 - (a) the date of their resignation;
 - (b) the date they are disqualified from office;
 - (c) the date their successor is sworn into office, or the date of the meeting at which a successor would have been sworn into office if there is no successor.
- (2) The code of conduct does not apply to action or conduct that occurred before the earlier of the following dates:
 - a. date that the code is adopted by a municipality;
 - b. December 19, 2024.

Complaint and Investigation Process

Appointment of investigator by municipality

- 6 (1) An investigator must have experience conducting investigations and applying the principles of natural justice and procedural fairness.
- (3) A municipality must include an investigator's contact information on its publicly accessible website.
- (4) A municipality must ensure that no conflict of interest exists between the investigator and the parties involved in a complaint.

Timeline for complaints

- 7 (1) A complaint must be made to an investigator no later than 6 months after the date that the complaint is discovered.
- (2) For the purposes of this Section, a complaint is discovered on the following applicable date:
 - (a) the date that the complainant first knew or ought reasonably to have known that the council member's conduct or action was potentially in

breach of the code of conduct;

- (b) for conduct or an action that is continuous, the date that the council member's action or conduct ceases;
- (c) for conduct or a series of actions that is repeated, the date that the council member's last act or conduct in the series occurs.

Complaints during elections

- 8
- (1) A complaint brought forward during a municipal election period, from nomination day until ordinary polling day, must not be investigated until the election is concluded.
 - (2) An investigation in progress on an election's nomination day must continue, but may be paused between nomination day and election day.
 - (3) An investigation in progress for a complaint made about the conduct of an elected official will not continue if the official is not re-elected.

Initial complaint process

- 9
- (1) An investigator must notify the Chief Administrative Officer whenever a complaint is received.
 - (2) An investigator must determine if there is merit to a complaint and then take 1 of the following actions:
 - (a) notify the Chief Administrative Officer that it is dismissed in accordance with subsection 23C(3) of the Act;
 - (b) if the investigator finds that the complaint has merit, the investigator must
 - (ii) notify the council member who is the subject of the complaint that a complaint has been made about them, and that it is proceeding to an investigation, and
 - (iii) begin their investigation and notify council in camera of the fact that a complaint is proceeding to the investigation phase.

Confidentiality

- 10
- An investigator must protect the confidentiality of all of the following to the greatest extent possible, while still applying the principles of natural justice and ensuring procedural fairness:
- (a) the complainant;

- (b) all persons who are the subject of the complaint;
- (c) all persons involved in the investigation.

Reporting on investigation

- 11** (1) Except as provided in subsection (2), the report on the investigation required by subsection 23C2) of the Act to be presented to council must be presented no later than 6 months after a complaint is made.
- (2) Council may grant an investigator additional time to present a report in exceptional circumstances, including a delay caused by a municipal election period.
- (3) A council member who is the subject of a complaint must be given an opportunity to review and respond to the information in an investigator's report, and to make submissions to council before the council determines whether there was a breach of the code of conduct.

Investigator report on failing to comply with sanction

- 12** Despite Sections 9, 10 and 11, if a council member fails to comply with a sanction as required by the code of conduct, the investigator is not required to conduct an investigation but must present a report to council with a recommendation on an appropriate sanction.

Determinations

- 13** After receiving the investigator's report and hearing any submissions from any council member who is the subject of the complaint, council must determine if a breach occurred any appropriate sanctions to impose in accordance with Sections 17 and 18.

Conflict of interest---council member present at meeting

- 14** If a council member who is the subject of a complaint or who has made a complaint under the code of conduct is present at a council meeting at which the complaint is discussed. the council member must
- (a) withdraw from their place as a council member and take 1 of the following applicable actions while the complaint is being considered:
 - (i) for a closed meeting, leave the room where the meeting is held,
 - (ii) for a meeting that is open to the public, either
 - (A) leave the room where the meeting is held, or
 - (B) attend only in part of the room set aside for the general public; and

- (b) not vote on any issue related to the complaint.

Public record

15 After council's determination of a complaint, the council must make a record that is open to the public outlining all of the following:

- (a) the section of the code of conduct under which the complaint was made;
- (b) the investigator's recommendations;
- (c) the council's determination and any sanction imposed

Council determination final

16 A council's determination regarding a complaint is final and binding on all parties.

Sanctions and Sanction Framework

Sanctions framework

17 A council must consider all of the following criteria before imposing a sanction on a council member for a contravention of the code of conduct:

- (a) the nature of the contravention;
- (b) the length or persistence of the contravention;
- (c) whether the council member's contravention was intentional;
- (d) whether the council member has taken any steps to remedy the contravention;
- (e) whether the council member has previously contravened the code of conduct;
- (f) any external factors that are relevant to the council member's contravention, including personal issues and health issues;
- (g) the resources necessary to fulfilling the council member's responsibilities as a council member.

Sanctions for contravention of code of conduct

18 (1) The sanctions to be imposed by Council under Section 23D of the Act may include 1 or more of the following prescribed sanctions:

- (a) a letter of formal reprimand or warning;

- (b) a requirement that the council member provide a letter acknowledging their contravention and an apology no later than 15 days after the date the council imposes the sanction;
 - (c) a requirement that the council member attend training that is appropriate to address the action or conduct that contravened the code of conduct;
 - (d) a public censure;
 - (e) limiting the council member's access to certain local government facilities, equipment or property;
 - (f) suspending or removing the council member as deputy head of council or the chair of any committee;
 - (g) suspending or removing the council member, for a period no longer than 6 months, from some or all municipal committees or boards;
 - (h) limiting the council member's participation on behalf of a municipality;
 - (i) limiting the council member's travel or expense reimbursement on behalf of a municipality;
 - (j) a fine of up to \$ 1000 per contravention of the code of conduct, that must be paid no later than 6 months after the date that council imposes the sanction;
 - (k) reducing the council member's remuneration, for a period no longer than 6 months;
 - (l) requiring the council member to repay any direct monetary loss realized by a municipality as a result of the council member's contravention, in an amount determined by the investigator;
 - (m) requiring the council member to repay any direct monetary gain they obtained as a result of their contravention, in an amount determined by the investigator.
- (2) A council member who is determined by council to have contravened the code of conduct must complete additional code of conduct training.

Code of Conduct for Municipal Elected Officials

Municipality of Colchester's Appointed Code of Conduct Investigators

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