

**MUNICIPALITY OF CENTRAL MANITOULIN**

**BY-LAW 2021-19**

**BEING A BY-LAW TO ESTABLISH A CODE OF CONDUCT FOR THE MAYOR AND COUNCIL OF THE MUNICIPALITY OF CENTRAL MANITOULIN PURSUANT TO SECTION 223.2 OF THE MUNICIPAL ACT, 2001, AS AMENDED**

**WHEREAS** Section 11 of the Municipal Act, S.O. 2001, as amended, authorizes municipalities to enact by-laws regarding Accountability and Transparency of the municipality and its operations;

**AND WHEREAS** section 223.2(1) of the Municipal Act, S.O. 2001, as amended, authorizes municipalities to establish a code of conduct for the members of Council;

**AND WHEREAS** THE Council of the Municipality of Central Manitoulin deems it inexpedient to establish a code of conduct for the members of Council;

**NOW THEREFORE** the Council of the Municipality of Central Manitoulin enacts as follows:

1. THAT Council does hereby adopt a code of conduct as set forth in Schedule "A" attached hereto and forming part of this by-law.
2. THAT By-law 2008-07 is hereby rescinded.
3. THAT this by-law shall come into force and effect on the date it is passed by the Council of the Municipality of Central Manitoulin

**THIS BY-LAW READ A FIRST, SECOND AND FINAL TIME THIS 26<sup>th</sup> DAY OF August , 2021.**

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MAYOR-Richard Stephens

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Ruth Frawley-Clerk

I, \_\_\_\_\_, Clerk of the Municipality of Central Manitoulin, do hereby certify that this is a true copy of By-law 2021-19 as passed in open Council the 26<sup>th</sup> day of August, 2021.

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Clerk

**MUNICIPALITY OF CENTRAL MANITOULIN**

**SCHEDULE “A” TO BY-LAW 2021-19**

## **Introduction**

Section 223.2 of the Municipal Act S.O. 2001, as amended, authorizes municipalities to establish, by by-law, a Code of Conduct for the members of Council of the municipality and of local boards of the municipality.

Members of Council of the Municipality of Central Manitoulin recognize and are committed to discharging their duties conscientiously, ethically, and to the best of their abilities in a manner which generates and maintains community trust.

## **Purpose**

The purpose of this Code of Conduct is to establish a minimum standard for the behaviour of Councillors in fulfilling their mandate while respecting each councilor's role to represent the public and the public interest to the best of their ability.

## **Legislative Framework**

This Code of Conduct is a supplemental standard to the legislative framework and parameters within which Members of Council are expected to operate. Members of Council must also comply with all legal obligations placed upon them, including, without limiting the generality of the foregoing, those contained within the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, the *Municipal Elections Act*, the *Ontario Human Rights Code*, and the *Municipal Freedom of Information and Protection of Privacy Act*.

## **Council/Committee Meeting Conduct**

Members of Council shall have regard and follow the rules of conduct contained within the municipality's procedural by-law and specifically, members of Council shall not:

- Speak disrespectfully of the reigning sovereign, any member of the Royal family, the Governor General, the Lieutenant-Governor, the head of the Government of Canada or of the Province of Ontario;
- Use offensive words or unparliamentarily words or expressions; and,
- Disobey the rules of the Councilor decision of the Chair or of the Council on questions of order or practice or upon the interpretation of the rules of Council.

Members of Council are to conduct themselves with respect and decorum during the course of their performance of their responsibilities as a Member of Council, as well as at meetings of Council and any committees. Members of Council are expected to act in accordance with the provisions of the Municipality's Procedure By-Law, and any other applicable by-laws.

For clarity, a failure by a Member of Council to comply with one or more provisions of the Procedure By-Law does not constitute a breach of this Code of Conduct in itself such as in circumstances where appropriate steps can be taken to call the Member of Council to order, or otherwise address the contravention, and the Member of Council complies.

## **Confidential Information**

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

Specifically, members of Council shall not:

- Release any information in contravention of the provision of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended;
- Release any information which is subject to solicitor-client privilege, unless specifically authorized by Council as required by law to do so;
- Misuse confidential information acquired by virtue of their position as an elected member that could cause a benefit or detriment to the Corporation, members of Council, staff, and the public.

## **Gifts**

No member of Council shall accept, directly or indirectly, from any person, company, firm or corporation a gift or personal benefit if it can be inferred that the gift was intended to influence the member in the performance of their duties as an elected member or that the gift was intended as a reward for any official action on the member's part.

Notwithstanding the above, gifts of a very small intrinsic value; gifts given for the use and benefit of the Corporation; and moderate hospitality during the normal course of business that would not significantly exceed what the Corporation would likely provide in return and would not be perceived by others as influencing the making of a business decision may be accepted. Members of Council shall exercise discretion in this regard and shall also recognize those gifts to the municipality which may be accepted by the member.

## **Procurement of Goods & Services**

No member of Council shall make personal purchases through the Corporation and all purchases made by the Corporation to assist the members of Council in the fulfillment of their duties (stationary, etc) shall be in accordance with the municipality's procurement by-law. Members of Council shall declare any conflict of interest with respect to the procurement of goods and services and shall refrain from the procurement process to which the conflict of interest relates.

## **Conflict of Interest**

Members of Council shall be responsible to ensure that they are familiar with the application of the Municipal Conflict of Interest Act, R.S.O. 1990, as amended. It shall be the responsibility of each member of Council, not staff, to determine whether they have a direct or indirect pecuniary interest with respect to matters arising before Council.

A member with a direct or indirect pecuniary interest, who is at a meeting where the matter in which the member has a pecuniary interest must:

- Disclose the interest and the general nature of the conflict;
- Not take part in the discussion or vote on the matter;
- Not attempt to influence the vote, before, during, or after the meeting;
- Leave the meeting while the matter is being discussed (only if the meeting is in camera); and,
- If absent from a meeting where a member's pecuniary interest is considered, disclose the interest at the next meeting attended by that member.

A member of Council does not have a pecuniary interest in respect of the following:

- (a) as a user of any public utility service supplied to the member by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;
- (b) by reason of the member being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;
- (c) by reason of the member purchasing or owning a debenture of the municipality or local board;
- (d) by reason of the member having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to the member in like manner as such a deposit is or may be returnable to all other electors;
- (e) by reason of having an interest in any property affected by a work under the *Drainage Act* or by a work under a regulation made under Part XII of the *Municipal Act, 2001*, as the case may be, relating to local improvements;
- (f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*;

- (g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the councilor local board when the councilor local board is empowered or required by any general or special Act to fill such vacancy, office or position;
- (h) by reason only of the member being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of the member being a member of the board, commission, or other body as an appointee of a council or local board;
- (i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which the member may be entitled by reason of being a member or as a member of a volunteer fire brigade, as the case may be;
- (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or
- (k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.

### **Incompatible Activity**

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

Specifically, members of Council shall not:

- Use any influence of their office for any purpose other than for their official duties;
- Act as an agent before Council any committee, board, or commission of Council;
- 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 their office that is not available to the general public for any purpose other than for their 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 of Council 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.

### **Election Campaigns/Use of Corporate Resources**

The Municipal Elections Act, S.O. 1996, as amended, prohibits a municipality from making a contribution to a candidate. The Act also prohibits the candidate, or someone acting on the candidate's behalf, from accepting a contribution from a person who is not entitled to make a contribution. Since contributions may take the form of money, goods, or services, any use by a member of Council of the municipality's resources for his/her election campaign would be viewed as a contribution and, therefore, a violation of the Act.

Members of Council shall not:

- Use corporate resources (including business cards, Municipal letterhead, etc.) and funding for election-related purposes;
- Enlist the use of staff to work in support of a municipal candidate during working hours unless they are on a leave of absence without pay, lieu time, floating holiday, or vacation leave;
- Use a constituency office or any municipally-provided facilities for election-related purposes, which includes the display of any campaign related signs in a window or on the premises, as well as displaying any election-related material in the office;
- Print or distribute any material paid for by the municipality that illustrates that a member of Council or any other individual is registered in any election or where they will be running for office;

- Profile, or make reference to, in any material paid by the municipality, any individual who is registered as a candidate in any election;
- Print or distribute any material using municipal funds that make reference to, or contains the names or photographs, or identifies registered candidates for municipal elections; minutes of Council and/ or Committee meetings being exempt;
- Use the municipality's voicemail system to record election-related messages;
- Use the municipality's website for election-related campaign material, inclusive of establishing links on the municipality's website to a registered candidate's website, email, or blog.

The following shall be discontinued for the members of Council from the day prior to Nomination Day in a municipal election year to Election Day:

- All forms of advertising, including municipal publications, paid for by the municipality;
- All printing, photocopying and distribution, including printing and general distribution of newsletters unless so directed and approved by Council; and,
- The ordering of business cards and other stationary.

## **Hiring**

The purpose of the Hiring Policy is to ensure that employment related decisions with respect to relatives are conducted in an open and transparent manner which is free from real and/or perceived conflicts of interest; the public has confidence in the integrity of the municipality's hiring policies and practices, and public expectations of conduct are upheld by the Corporation.

Relatives of the members of Council shall be prohibited from employment by the municipality where:

- They would supervised by, or subordinate to, one another (direct reporting relationship);
- They would be given preferential treatment in the recruitment and/ or selection for vacancies within the municipality; and,
- They would be appointed to positions where job responsibilities would be incompatible with positions occupied by relatives.

The Corporation recognizes that broader family relationships (relatives) and close personal relationships exist which may give rise to concerns of real and/ or perceived conflicts of interest. Members of Council who find themselves in such situations must be sensitive to these concerns and govern themselves in such a manner which reinforces the objects and intent of this policy.

## **Interpersonal Behaviors**

### Ontario Human Rights Code

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

### Discrimination

No member of Council shall discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.

### Violence, Harassment, and Respect in the Workplace

No Member of Council shall engage in behaviour which is contrary to the Municipality's Respect in the Workplace Policy, and should be mindful of the application definitions as set out in the *Occupational Health & Safety Act*, as follows:

“workplace harassment” means,

- (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or

(b) workplace sexual harassment;

“workplace sexual harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

“workplace violence” means,

(a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,

(b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,

(c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

For clarity, the exercise of performance management tools, and generally reasonable action taken by an employer relating to the management and direction of workers or the workplace is not workplace harassment.

#### Relationship with Staff

Members of Council shall be respectful of the fact that staff work for the municipality and make recommendations based on their professional and technical expertise as well as from a corporate perspective, without undue influence from individual members of Council. Many staff members are bound, through professional associations, to a strict code of ethics in the delivery of their services. Accordingly, members of Council shall not:

- Maliciously or falsely injure the professional or ethical reputation of staff;
- Compel staff to engage in partisan political activities or be subjected to threats of discrimination for refusing to engage in such activities; and,
- Use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with staff duties.

#### **Social Media**

Members of Council should use sound judgment and common sense in using social media, and ensure that their use of same is consistent with the requirements of this Code of Conduct. Without limiting the generality of the foregoing, Members of Council shall not:

- a.) post or share content written by another individual unless they have proper permissions to do so;
- b.) use intellectual property, such as trademarked or copyrighted materials without obtaining appropriate permissions from those who hold its rights;
- c.) post about information obtained during closed sessions of Council and/or in camera meetings;
- d.) post about specific individuals, including pictures or written comment, without their permission;
- e.) attempt to mislead or disguise their identity or status as an elected representative when using social media

## **Professional Development**

Members of Council are encouraged to promote and participate in opportunities for professional development offered through professional associations, staff, etc.

## **Integrity Commissioner**

This Code of Conduct is administered by the Municipality's Integrity Commissioner, who is appointed to perform, in an independent manner, the functions of an Integrity Commissioner as set out in Part V.1 of the *Municipal Act, 2001*. As outlined in the *Municipal Act, 2001*, the Integrity Commissioner, is generally responsible for the following:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the Municipal Conflict of Interest Act.

## **Advice**

Members of Council may seek information or advice from the Integrity Commissioner about their responsibilities under the Code of Conduct or respecting their obligations under the Municipal Conflict of Interest Act. Where a Member of Council seeks such advice, the Member of Council is to request the advice in writing and, where the Integrity Commissioner provides such advice, the advice will also be made in writing. Where advice is provided by the Integrity Commissioner, such advice may be publicly released where authorized by law or with the Member of Council's written consent. However, should the Member of Council publicly release a portion of any advice provided, the Integrity Commissioner may release part or all of the advice without the consent of the Member of Council.

## **Complaint Regarding Code of Conduct**

Where it is believed that a Member of Council has contravened the Code of Conduct, a Complaint ("Complaint") may be initiated by any person, Member of Council, or by Council, by making a complaint in writing to the Integrity Commissioner and sending it to the Integrity Commissioner by mail, e-mail, courier, and/or facsimile transmission. The Complaint must be signed and dated by the complainant, who must be an identifiable individual. The Complaint must include an explanation as to the alleged violation of the Code of Conduct, must identify the relevance provision(s) alleged to be violated, any evidence in support of the allegation and the names of any witnesses who may be able to verify the facts underlying the Complaint. Complaints are to be made within sixty (60) days of the alleged violation.

## **Application Regarding *Municipal Conflict of Interest Act***

An Application ("Application") may be made to the Integrity Commissioner alleging a contravention of section 5, 5.1, and/or 5.2 of the *Municipal Conflict of Interest Act* by any elector as define in the *Municipal Conflict of Interest Act* or by a person demonstrably acting

in the public interest by making an Application in writing to the Integrity Commissioner and sending it to the Integrity Commissioner by mail, e-mail, courier, and/or facsimile transmission. Any such Application must be signed and dated by the Applicant, who must be an identifiable individual, and shall include an explanation as to why the issue is alleged to be such a contravention with reference to the application sections of the *Municipal Conflict of Interest Act*, any evidence and the names of any witnesses to the alleged violation, and a statutory declaration attesting to the fact that the Applicant became aware of the alleged contravention not more than six (6) weeks before the date of the Application. For clarity, an Application can only be made within six (6) weeks after the Applicant became aware of the alleged contravention or as otherwise permitted by the Municipal Act, 2001.

### **Initial Review Regarding Jurisdiction and Bona Fide Nature of Complaint/Application**

Upon receipt of any Application or Complaint, the Integrity Commissioner shall perform an initial review to determine whether or not the matter relates to non-compliance with the Code of Conduct or alleged contravention of the *Municipal Conflict of Interest Act*. Where the Complaint or Application is determined to be outside of the jurisdiction of the Integrity Commissioner, he or she may dispose of the Application in a summary fashion and may advise the Complainant or Applicant accordingly and in writing. If the Complaint or Application relates to one of the following the integrity Commissioner may direct the Applicant or Complainant accordingly:

- a. *Municipal Elections Act* – the Complainant/Applicant will be referred to the Compliance Audit process
- b. *Municipal Freedom of Information and Protection of Privacy Act* – the Complainant/Application will be referred to the Clerk
- c. Criminal Code matter – the Complainant/Applicant will be referred to the appropriate police service

Additionally, where the Integrity Commissioner determines, either upon receiving an Application or Complaint, or following the commencement of an investigation into same, that the Complaint or Application is frivolous, vexatious, and/or not made in good faith, the Integrity Commissioner may terminate any investigation already commenced and/or decide not to investigate it and dispose of the Application or Complaint in a summary manner. If so, the Integrity Commissioner shall advise the Applicant/Complainant of his or her decision and the reasons for it in writing.

### **Investigation Process**

Following the receipt of any Complaint or Application for which an investigation is required, the Integrity Commissioner shall take all appropriate steps to promptly investigate the Complaint or Application that are within his or her jurisdiction, including, without limiting the generality of the foregoing, entering any office of the Municipality, gathering any information and records applicable thereto, and/or interviewing and/or requesting appropriate information from the Complainant/Applicant, any witnesses.

### **Opportunity for Resolution of the Complaint**

Unless otherwise required by law, where at any time following the receipt of any formal complaint or during an inquiry process the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued and both the Complainant and Member of Council agree, appropriate efforts may be taken to achieve an informal resolution.

### **Election Considerations**

No investigation will be commenced or continued within the election period between nomination day and six (6) weeks after voting day. The Integrity Commissioner shall not report to Council respecting and investigation, nor shall Council consider imposing any sanctions regarding a Complaint, during this period of time. If an investigation is terminated on nomination day, the Integrity Commissioner will not commence another investigation unless the Complainant/Applicant, or the Member of Council (or former Member of Council) requests it in writing within six (6) weeks after voting day.

## **Reporting Results of an Investigation**

Upon the conclusion of any investigation into a Complaint, the Integrity Commissioner will issue a report to Council on the investigation's findings, whether or not any contravention of the Code of Conduct was determined, any recommended sanctions or any settlement. The Integrity Commissioner will provide a copy of the final report to the Member of Council who was the subject of the Complaint at the time the final report is made available to the Clerk and the Complainant at the same time that the report becomes public.

Upon the conclusion of any investigation into an Application, the Integrity Commissioner, if he or she considers it appropriate, apply to a Judge under section 8 of the Municipal Conflict of Interest Act for a determination as to whether or not the Member of Council has contravened section 5, 5.1, and/or 5.2 of that Act. The Integrity Commissioner shall also advise the Applicant if he or she will not be making an Application to a Judge and provide a written report to Council providing his or her reasons for applying to a Judge or not doing so.

The Integrity Commissioner's report following the investigation of any Complaint or Application shall be placed on an agenda for consideration at a public meeting of Council or the Committee of the Whole. The Integrity Commissioner should generally complete any investigation and provide a report to Council within 60 **days** of the Complaint or Application's filing.

## **Action by Council**

When Council receives a final report with respect to a Complaint where the Integrity Commissioner has determined there was a violation of the Code of Conduct, Council may impose a penalty as contemplated by the *Municipal Act, 2001*, including a reprimand or suspension of remuneration paid to the Member of Council for up to ninety (90) days.

Council may also take the following actions:

- a.) removal as Chair of a committee
- b.) removal as a member of any committee
- c.) request the return of property or the reimbursement of its value
- d.) request the repayment or reimbursement of any monies received

## **Reprisal and Cooperation**

No Member of Council shall engage in any reprisal and/or make any threat of reprisal against a complainant or any other person for providing information to the Integrity Commissioner and/or for making a complaint to the Integrity Commissioner.

No Member of Council shall obstruct the Integrity Commissioner in carrying out any of his or her responsibilities in the conducting of an investigation or inquiry. Without limiting the generality of the foregoing, "obstruct" may include but is not limited to the destroying and/or deletion of documents or records, the withholding or concealing of documents or records, and/or failing to respond to a written request by the Integrity Commissioner as it relates to the investigation of any complaint and/or application.

## **Implementation**

The Code of Conduct will be included as part of an orientation workshop for each new term of Council. In addition, members are expected to review the Code of Conduct on a regular basis.