

The Corporation of the City of Peterborough

By-Law Number 19-028

Being a By-law to establish a Code of Conduct for Members of the Council of The Corporation of the City of Peterborough and certain Local Boards

Whereas subsection 223.2(1) of the **Municipal Act, 2001**, S.O. 2001, c. 25, as amended, permits and, by March 1, 2019, will require the municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality;

Now therefore, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. This by-law establishes a Code of Conduct for Members of the Council of The Corporation of the City of Peterborough and of certain Local Boards.
2. The short title of this by-law is "City of Peterborough Council Code of Conduct"

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Definitions

3. In this by-law:
 - a) "child" means a child born within or outside marriage and includes an adopted child and a person whom a Member has demonstrated a settled intention to treat as a child of her or his family;
 - b) "City" means The Corporation of the City of Peterborough;
 - c) "Code of Conduct" means the City of Peterborough Council Code of Conduct established by this by-law;
 - d) "confidential information" includes:

- i) any information in the possession of, or received in confidence by, the City that the City is prohibited from disclosing, or has decided to refuse to disclose, under the **Municipal Freedom of Information and Protection of Privacy Act**, or any other law;
 - ii) information of a corporate, commercial, scientific or technical nature received in confidence from third parties;
 - iii) personal information;
 - iv) information that is subject to solicitor-client privilege;
 - v) information that concerns any confidential matters pertaining to personnel, labour relations, legal proceedings, property acquisition or disposition, or the security of the property of the City or a local board;
 - vi) a matter, the substance of a matter, and information pertaining to a matter, that has been included on an agenda or that have been debated or discussed at a meeting of Council, a Standing Committee or a local board described in paragraph 3j) where the meeting is closed to the public; and
 - vii) any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order;
- e) "Council" means the Council of The Corporation of the City of Peterborough;
- f) "Harassment includes
- i) any comment, conduct, action or gesture that is unwelcome or that ought reasonably known to be unwelcome that could affect a person's dignity or a person's psychological or physical health; and
 - ii) Sexual Harassment;
- g) "information" includes a record or document, whether in printed form, on film, by electronic means or otherwise;
- h) "Integrity Commissioner" means each person or persons from time to time appointed pursuant to section 223.3 of the **Municipal Act, 2001**;
- i) "lobbyist" means a person that communicates with a Member for the purpose of influencing or attempting to influence the Member respecting an issue that is or may be pending before Council or one of its Standing Committees;
- j) "Member" means each member of the Council and of the following local boards of the City:
- i) Downtown Business Improvement Area Board;
 - ii) East City Business Improvement Area Board; and
 - iii) Peterborough Utilities Commission;
- k) "**Municipal Act, 2001**" means **Municipal Act, 2001**, S.O. 2001, c. 25, as amended;
- l) "parent" means a person who has demonstrated a settled intention to treat a child as a part of her or his family whether or not that person is the natural parent of the child;
- m) "person" includes a corporation, partnership, association and any other entity as the context allows;

- n) "personal information" includes recorded information about an identifiable individual;
- o) "Sexual Harassment" includes any comment, conduct, action or gesture of a sexual nature or respecting sexual orientation, gender identity or gender expression that is unwelcome or that ought reasonably to be known to be unwelcome including:
 - i) a sexual advance, solicitation or request for a sexual favour;
 - ii) a reprisal or threat related to the rejection of a sexual advance, solicitation or request for a sexual favour where the reprisal or threat is influenced or made by a person in a position to confer or deny a benefit to the person who rejects the sexual advance, solicitation or request for a sexual favour;
 - iii) a comment, joke, innuendo or taunt about a person's body, attire, personal life or social life;
 - iv) a practical joke of a sexual nature or respecting sexual orientation, gender identity or gender expression which could cause awkwardness or embarrassment;
 - v) a display or distribution by any media of pornographic images or other material of a sexual nature;
 - vi) leering or other gestures of a sexual nature;
 - vii) unwelcome physical contact including touching, patting or pinching;
 - viii) an expression of gender bias including expressions that are discriminatory, degrading or derogatory; and
 - ix) sexual assault;
- p) "spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage;
- q) "Standing Committee" means each Standing Committee as from time to time established by the City's Procedure By-law.

Principles upon which this Code of Conduct is Based

- 4. Improving the quality of municipal administration and governance can best be achieved by encouraging high standards of conduct on the part of all municipal officials. In particular, the public is entitled to expect the highest standards of conduct from the Members whom they elect to local government. In turn, adherence to these standards will protect and maintain the City's reputation and integrity.
- 5. Key statements of principle that underlie this Code of Conduct are as follows:
 - a) Members must serve and be seen to serve their constituents in a conscientious and diligent manner;
 - b) Members must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest;
 - c) Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;

- d) Members must recognize and act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable to members of the public as possible; and
- e) Members must seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the laws and policies adopted by the Council.

Application of this Code

- 6. This Code of Conduct applies to each Member.

Compliance with Declaration of Office

- 7. Each Member must act in accordance with her or his declaration of office or terms of appointment, as applicable.

Adherence to Council Policies and Procedures

- 8. Each Member must observe and comply with every provision of this Code of Conduct as well as with all other policies and procedures adopted or established by Council affecting the Member. This Code of Conduct prevails to the extent of any inconsistency between this Code of Conduct and any of the aforementioned policies or procedures.

Conduct at Meetings

- 9. Each Member must conduct herself or himself properly and in a civil manner at Council, Committee and other meetings, and in accordance with the provisions of the City's Procedure By-law, this Code of Conduct, and other applicable law.

Conduct Respecting Others

- 10. Each Member has the duty and responsibility to treat members of the public, each other Member and staff appropriately and without abuse, bullying or intimidation, and to ensure that the City's work environment is free from discrimination and Harassment. Without limitation, a Member must not:
 - a) use indecent, abusive or insulting words or expressions toward any other Member, any member of staff or any member of the public;
 - b) speak in a manner that is discriminatory to any individual, based on that person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability; or
 - c) engage in any Harassment of any other Member, any member of staff or any member of the public.

Conduct Respecting Staff

- 11. Under the direction of the senior City administration, and in accordance with the decisions of Council, City staff are required to serve the municipal corporation as a whole. Each Member must be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any Member.
- 12. No Member may maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff.
- 13. Each Member must show respect for staff, and for their professional capacities and responsibilities.

14. No Member may compel any member of staff to engage in partisan political activities or subject any member of staff to threat or discrimination for refusing to engage in any such activity.
15. No Member may use or attempt to further her or his authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that person's duties, including the duty to disclose improper activity.

Gifts and Benefits

16. For the purposes of this Code of Conduct, a gift or benefit provided, with the Member's knowledge, to the 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 or benefit to that Member.
17. No Member may accept a fee, advance, gift or personal benefit that is related directly or indirectly with the performance of her or his duties of office, unless permitted under one or more of the following exceptions:
 - a) compensation authorized by law;
 - b) a gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
 - c) a political contribution otherwise authorized and reported as required by law, in the case of a Member running for office;
 - d) services provided without compensation by a person volunteering her or his time;
 - e) a suitable memento of a function honouring the Member;
 - f) food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or event where the Member is speaking or attending in an official capacity;
 - g) food and beverages consumed at a banquet, reception or similar event, if:
 - i) attendance by the Member is for a legitimate City purpose;
 - ii) the person extending the invitation, or a representative of the organization holding the event, is in attendance; and
 - iii) the value is reasonable;
 - h) communications to the office of a Member, including subscriptions to newspapers and periodicals; and
 - i) a sponsorship or donation for a community event organized or run by a Member, or a third party on behalf of a Member, subject to the limitations set out in any applicable Council policy or this Code of Conduct.
 - j) Except for exception 17c) (political contributions allowable by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer.
18. In the case of any of the exceptions 17.b), 17.e), 17.f), 17.h) and 17.i), if the value of the gift or benefit exceeds \$300.00, or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$300.00, the Member must file, within 30 days of receipt of the gift or benefit or of

reaching the annual limit, a disclosure statement with the City Clerk. The disclosure statement must set out:

- a) the nature of every gift or benefit received;
 - b) its source and date of receipt;
 - c) the circumstances under which it was given and received;
 - d) its estimated value;
 - e) what the recipient has done or intends to do with any gift; and
 - f) whether any gift will at some point be provided to the City.
19. The City Clerk will cause each disclosure statement to be published as part of an agenda for an open meeting of Council.
 20. Council will decide whether to refer a disclosure statement to an Integrity Commissioner.
 21. If Council decides to refer a disclosure statement to an Integrity Commissioner, the Integrity Commissioner will examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, constitute a contravention of this Code of Conduct or create a conflict between a private interest and the public duty or responsibilities of the Member. In the event that the Integrity Commissioner makes such a determination, she or he will call upon the Member to justify receipt of the gift or benefit.
 22. If the Integrity Commissioner determines that receipt of any gift or benefit was inappropriate, she or he may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit to the City the value of any gift or benefit already consumed.
 23. Except in the case of exceptions 17.a), 17.c), 17.f) and 17.i), no Member may accept a gift or benefit worth in excess of \$500.00, or gifts or benefits from one source during a calendar year which together are worth in excess of \$500.00.

Confidential Information

24. No Member may disclose, release or publish by any means to any person or to the public any confidential information of the City, whether or not acquired by virtue of her or his office, except when required or authorized by Council, or otherwise by law to do so.
25. No Member may use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person.
26. No Member may obtain access, or attempt to gain access, to confidential information except to the extent that such access is necessary for the performance of her or his duties, such confidential information is provided to Council, as applicable, as a whole, and such access is not prohibited by Council or otherwise by law.

Use of City Property, Services and Other Resources

27. No Member may use, or permit the use of, City land, facilities, equipment, supplies, services, staff or other resource, including any City-owned information, website, Council transportation delivery service or funds allocated for Member's expenses, for any purpose or activity other than for the lawful business of the City.
28. No Member may seek or acquire any personal financial gain from the use or sale of confidential information, or of any City-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or

any other information or item capable of being patented or copyrighted, of which property remains exclusively that of the City.

No Improper Use of Influence

29. No Member may use the influence of her or his office for any purpose other than for the lawful exercise of her or his official duties and for City purposes. Without limitation, no Member may:
 - a) use her or his office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage or that of the Member's parent, child, spouse, staff member, friend or associate, business or otherwise;
 - b) attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties; or
 - c) hold out the prospect or promise of future advantage through the Member's supposed influence within Council, in return for any action or inaction.
30. For the purposes of section 29, "private advantage" does not include:
 - a) a matter that is of general application;
 - b) a matter that affects a Member, her or his parents/children or spouse, staff members, friends or associates, business or otherwise as one of a broad class of persons;
 - c) a matter that concerns the remuneration or benefits of a Member; or
 - d) a request by a Member that Council grant a lawful exemption.

Non Compliance with this Code of Conduct – Administration and Sanctions

31. A person who believes that a Member has contravened any provision of this Code of Conduct may give to the Integrity Commissioner the person's complaint which must be in writing and must set out the particulars of the alleged contravention.
32. An Integrity Commissioner may refuse to investigate a complaint if, in the opinion of the Integrity Commissioner, a complaint is frivolous, vexatious or an abuse of process. An Integrity Commissioner will report to Council respecting each complaint given to the Integrity Commissioner. The Integrity Commissioner and her or his delegates have the powers and be subject to the duties prescribed by sections 223.3 to 223.8, inclusive, of the **Municipal Act, 2001** and by other applicable law.
33. Notwithstanding anything in this by-law:
 - a) If an Integrity Commissioner has not completed an inquiry before nomination day for a regular election, the Integrity Commissioner must terminate the inquiry on that day. If an inquiry is terminated, the Integrity Commissioner must not commence another inquiry in respect of the matter unless, within six (6) weeks after voting day in a regular election, the person or made the complaint or the Member whose conduct is the subject matter of the complaint makes a written request to the Integrity Commissioner that the inquiry be commenced, provided that no inquiry respecting a former Member may be commenced.
 - b) Between nomination day and voting day in a regular municipal election, no person may submit a complaint respecting an alleged contravention of the Code of Conduct, the Integrity Commissioner must not report to the Council about whether a Member has contravened the Code of Conduct and the Council may not consider whether to impose penalties.

34. Upon receipt of a report from an Integrity Commissioner that, in the Integrity Commissioner's opinion, a Member has contravened this Code of Conduct, Council will decide whether to impose either of the penalties prescribed by subsection 223.4(5) of the **Municipal Act, 2001** as follows:
 - a) a reprimand; or
 - b) suspension of the remuneration paid to the Member in respect of her or his services as a Member for a period of up to 90 days.
35. An Integrity Commissioner may also recommend that Council take one or more of the following actions:
 - a) removal from membership on a committee or local board;
 - b) removal as chair or as vice-chair of a committee or local board;
 - c) repayment or reimbursement of monies received;
 - d) return of property or reimbursement of its value;
 - e) request a public apology to Council, the complainant, or both; or
 - f) any other or additional action deemed by Council to be appropriate, and which is within its power to take.

No Reprisal or Obstruction in the Application or Enforcement of this Code

36. Each Member must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it and must co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat of reprisal against a complainant or any other person for lodging a complaint or for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner, or any other City official involved in applying or furthering the objectives or requirements of this Code of Conduct, in the carrying out of such responsibilities, or pursuing any such objective.

Other Standards Respecting the Conduct of Councillors

37. In the case of any inconsistency between this Code of Conduct and a Federal or Provincial statute or regulation, the statute or regulation prevails to the extent of the inconsistency.
38. In case of any inconsistency between this Code of Conduct and another by-law of the City, the provision that establishes a stricter standard applies to the extent of the inconsistency.
39. This Code of Conduct does not limit the role of the Mayor to provide leadership to the Council including respecting the principles on which this Code of Conduct is based.

By-law read a first, second and third time this 28th day of January, 2019.

(Sgd.) Diane Therrien, Mayor

(Sgd.) John Kennedy, City Clerk