

Staff Report 2019-0277

Meeting Date: December 3, 2019

Subject: Proposed Code of Conduct for Members of Council and Designated Boards

Submitted By: Chad Curtis, Specialist, Legislative, Corporate Services

RECOMMENDATION

That the proposed Code of Conduct for Members of Council and Designated Boards, attached as Schedule A to Staff Report 2019-0277, be approved; and

A by-law to adopt a Code of Conduct for Members of Council and Designated Boards be enacted.

REPORT HIGHLIGHTS

- Bill 68, the *Modernizing Ontario's Municipal Legislation, Act*, prescribes the provisions Code of Conduct for Members of Council and Designated Boards must contain.
- The proposed Code of Conduct for Members of Council and Designated Boards will replace the existing Council Code of Conduct.
- A Code of Conduct Committee was created to review the existing Council Code of Conduct and provide feedback.
- In 2018 at a Council meeting, use of social media for members of Council was discussed and staff were asked to incorporate social media guidelines into the Code of Conduct.
- The Integrity Commissioner regime has expanded with Bill 68, and the Municipal Integrity Commissioners of Ontario (MICO) released their Statement of Principles provides direction to Integrity Commissioners while they perform their role.

DISCUSSION

Background

In 2010 Town Council established the Office of the Integrity Commissioner and adopted its first Code of Conduct as per Bylaw 2010-129. The Code of Conduct was amended in 2015 as per By-law 2015-090.

Bill 68, the *Modernizing Ontario's Municipal Legislation Act, 2017* amended the *Municipal Act, 2001* to mandate that all municipalities in Ontario must have a Code of Conduct for Council and local boards. This legislation prescribes provisions a Code of Conduct must contain. The Town's existing Code of Conduct required updating to ensure compliance with the legislation and applicability to local boards.

An analysis of the Town's governing structures was conducted to determine which of the its committees, boards, and task forces are local boards, as defined by the *Municipal Act*. The proposed Code of Conduct will apply to Town Council and the following advisory committees, local boards, and task forces, referred to in the Code as "designated boards":

- Committee of Adjustment
- Appeal Board
- Accessibility Advisory Committee
- Heritage Caledon
- Seniors' Task Force
- Bolton Business Improvement Area (BIA)
- Active Transportation Task Force
- Climate Change Action Plan Task Force

The Caledon Library Board is not a local board as defined by the *Municipal Act*. They have adopted its own Code of Conduct and it is available on the Caledon Public Library website.

Code Development

The Code of Conduct Committee was created in January 2019 to amend the Code to comply with provincial regulations. The Committee met in May 2019 and October 2019 and provided input in the creation of the proposed Code of Conduct for Members of Council and Designated Boards.

The Committee suggested several changes to be included in the proposed Code. The bulk of the changes from the existing to the proposed Code include;

- Removal of the requirement for complainants to declare an affidavit to submit a complaint. This was seen as a barrier to the process, and other professions whereby complaint mechanisms exist, including lawyers, doctors and financial sector, do not require an affidavit to submit complaints.
- Rules outlining corporate tables and gifts to provide clarity regarding scheduling of corporate tables and attendance at such events. Further clarity was included with respect to gifts. Based on feedback from the Committee and jurisdictional scanning, many municipal Code's include a threshold whereby a member of Council or Designated Board may accept a gift in the course of their official duties. A \$300 threshold was proposed whereby gifts greater than the threshold must be disclosed to the Integrity Commissioner for consideration and advice.

- The Conflict of Interest section was enhanced to expand the definition of family to include other relations of a Members immediate family. Members may seek advice from the Integrity Commissioner and can rely upon that advice.
- The ability of the Integrity Commissioner to impose sanctions on Members was discussed. Caledon is relatively unique in that the Integrity Commissioner imposes the sanction based on the investigation when reporting to Council. Members of the Committee requested that this ability remain with the Integrity Commissioner as an impartial adjudicator of the investigation.
- The Code of Conduct for Council and Designated Boards contains detailed procedures for filing a complaint and complaint resolution. The Code was amended as is prescribed to include the ability of the Integrity Commissioner to conduct an inquiry under the *Municipal Conflict of Interest Act*. The Code contains a provision whereby the Integrity Commissioner, under their sole discretion, may declare a complaint to be frivolous and vexatious and therefore not to be investigated.

Members will have access to the Integrity Commissioner for advice on implications of the Code and the law. Such advice must be requested in writing and will be held confidential by the Integrity Commissioner. A Member who acts upon the advice of the Integrity Commissioner may rely upon that advice.

Inclusion of Social Media Guidelines

At a previous meeting of Council, clarity regarding a member's conduct on social media was discussed. The proposed Social Media Guidelines, attached as Schedule B to the proposed Code, is designed to clarify how members of Council and Designated Boards use social media. The Guidelines provide information on personal versus professional social media accounts, specific election year requirements, Canada's Anti-Spam Legislation, confidential information and use of tools while respecting staff, each other, and the public.

Municipal Integrity Commissioners of Ontario Standards

The Municipal Integrity Commissioners of Ontario, an association of Integrity Commissioner's, reviewed and established a Statement of Principles, which outlines the attributes and values that Integrity Commissioners of Ontario practice while they carry out their roles in the municipalities they serve. A copy of the Principles is attached as Schedule B to this report for information.

If approved, a by-law to adopt the Code of Conduct for Members of Council and Designated Boards (Schedule A to Staff Report 2019-0277) will be brought forward for

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Council's consideration. The proposed by-law would repeal the previous by-laws (2010-129 and 2015-090).

FINANCIAL IMPLICATIONS

The costs associated with the Town's Integrity Commissioner services are included in the Corporate Services, Legislative Services Contracted Services operating budget.

An annual retainer, as per the existing Integrity Commissioner contract, is set at \$10,000 with the option to provide supplemental work as required by the CAO or Clerk, funded by Legislative Services Contracted Services operating budget.

COUNCIL WORK PLAN

Not Applicable

Subject matter is not relevant to the Council Workplan.

ATTACHMENTS

Schedule A: Proposed Code of Conduct for Members of Council and Designated Boards

Schedule B: The Municipal Integrity Commissioners of Ontario – Statement of Principles