

**Town of Caledon
Code of Conduct
For Members of Council
And
Designated Boards**

Corporate Policy

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Subject: Council Code of Conduct

Introduction

Democracy is an active process which requires ongoing engagement between citizens and their elected officials. It is the responsibility of elected officials to uphold the integrity and ethical accountability which are the foundation of public confidence in government and the political process.

There has been a general trend at the municipal level of government in Ontario to develop rules around ethical conduct for elected officials so that it is clear that they are to carry out their duties with impartiality and equality of services to all, recognizing that as community leaders, they are accountable to a certain standard of behaviour and conduct.

That trend is now reflected in the law in Ontario, with specific provisions in the *Municipal Act* and the *Municipal Conflict of Interest Act*. Notable among the provisions is the *requirement* that every municipality adopt a Code of Conduct and have or have access to an Integrity Commissioner.

A written Code of Conduct (“Code”) helps to ensure that Members share a common understanding of acceptable conduct.

Definitions

Code of Conduct

Refers to the Code of Conduct approved by resolution and by-law of the Town of Caledon in compliance with the requirements of the *Municipal Act, 2001, S.O. 2001, c.25*.

Corporate resource

“Corporate Resource” includes but is not limited to Town equipment, supplies, services, tools, property (both physical and intellectual), systems, software systems, website, domain name, logo, smart phone, cell phone, addresses, voice-mail, email address, email, facility and staff while undertaking duties as a Member.

Family

“Family” includes “child”, “parent” and “spouse” as those terms are defined in the *Municipal Conflict of Interest Act*, and also includes:

- step-child and grand-child;
- siblings and step-siblings;
- aunt/uncle, niece/nephew;
- in-laws, including mother/father, sister/brother, daughter/son; and
- any person who lives with the Member on a permanent basis.

Frivolous

Means being of little or no weight, worth or importance; about a matter so trivial or one so meritless on its face that investigation would be disproportionate in terms of time and cost.

Intake Review

Refers to the process undertaken by the Integrity Commissioner upon receipt of a filed complaint, or an Inquiry under the *Municipal Conflict of Interest Act*, to determine to the

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satisfaction of the Integrity Commissioner that the complaint or request for an inquiry is legitimate, within the public interest to review, and the mandate of the Integrity Commissioner, and is not frivolous or vexatious.

Interest in Common with Electors Generally

Means a pecuniary interest in common with the electors within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part.

Member/Members

Refers to persons elected to the position of Mayor or Councillor and to all persons duly appointed by Council to the Town of Caledon's designated Committees, Boards and Task Forces, all of whom are hereinafter referred to as Member/Members.

Vexatious

Means instituted without sufficient grounds and serving only to cause annoyance, frustration or worry; that the complaint or is initiated with the intent to embarrass or annoy the recipient, or is part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process.

Statutory Provisions Regulating Conduct

This Code of Conduct is a complement to the existing legislation governing the conduct of Members of Council and Members of Town Committees, Boards and Task Forces (hereinafter referred to as Member or Members).

For clarity, such Designated Boards include, but are not limited to:

- 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 following federal and provincial legislation governs the conduct of Members of Council and where applicable, of Members of Designated Boards:

- the *Municipal Act, 2001*
- the *Municipal Conflict of Interest Act, 1990*
- the *Municipal Elections Act, 1996*
- the *Municipal Freedom of Information and Protection of Privacy Act, 1990*

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- the *Provincial Offences Act*, 1990
- the *Ontario Human Rights Code*, 1990
- the *Criminal Code of Canada*, 1985

Also governing the conduct of Members are the by-laws and policies of Council as adopted and amended from time to time, including but not limited to the:

- Procedural By-law
- Workplace Violence Policy
- Harassment, Sexual Harassment and/or Discrimination Policy in the Workplace

Policy Statement

This Code is designed to provide clear rules and a supplement to the legal requirements within which Members must operate. These rules serve to enhance public confidence that Caledon's Members operate from a basis of integrity, justice and accountability and respect for others.

The Code of Conduct for Council Members and Designated Boards and related policies identify the Town of Caledon's expectations of Members and establishes rules for appropriate conduct to ensure that:

- Caledon residents have confidence in the integrity of their elected and appointed Members and local government;
- Members shall serve and be seen to serve constituents in a conscientious and diligent manner;
- Members shall be committed to performing their functions with integrity, honesty and accountability, and to avoid the improper use of the influence of their office, and conflicts of interest, both real and apparent;
- The decision-making processes of Council and its Designated Boards are open, transparent, equitable and accountable;
- Decisions are made through appropriate channels of government structure;
- Public office is not used for personal gain;
- There is fairness and respect for differences and a duty to work together for the common good of the community and the residents;
- Members behave in a manner that is both ethically responsible and accountable at all times in upholding the public interest and will withstand public scrutiny;
- Members at all times behave in a manner that is respectful of the views and perspectives of other Members, however diverse those views and perspectives might be;
- Members demonstrate an understanding of the fundamental rights, privileges and obligations of their elected or appointed position;
- Members are provided with and able to readily obtain information and advice on the ethical propriety of conduct in different situations;
- Members seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and the Town.

Further, the *Municipal Conflict of Interest Act* sets out the following Principles in relation to the duties of Members:

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- The importance of integrity, independence and accountability in local government decision-making;
- The importance of certainty in reconciling the public duties and pecuniary interests of members;
- Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny;
- There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise.

Practices and Procedures

Although areas of ethical exposure are generally consistent and understood in municipal governance, the following areas and rules have been specifically identified as being paramount to the municipal political process:

1. Roles and Obligations
2. Confidentiality
3. Communications/Media Relations/Promotion
4. Advice and Support to Members
5. Relations with Employees
6. Gifts, Hospitality and Benefits
7. Conflict of Interest – Pecuniary Interest
8. Conduct at Meetings
9. Elections – Corporate Resources
10. Use of Corporate Resources
11. Compliance with the Code – Complaint Protocol
12. Refusal to Conduct Investigation or Inquiry following the Intake Review
13. Opportunities for Resolution
14. Investigation
15. Reports to Council
16. Duty of Council
17. Public Disclosure
18. Non-Compliance with the Code

1. Roles and Obligations

1.1 Members must recognize their responsibility to:

- a) Represent the diversity of community views in a fair, respectful and equitable manner, while developing an overall strategy for the future of the Town;
- b) Endeavour to demonstrate sound financial management, planning and accountability;
- c) Be aware of and understand statutory obligations imposed upon individual Members and Council as a statutory body.

1.2 The onus is on Members to ensure that they adhere to and uphold the Code.

1.3 Regional Councillors also serve as Members of Council for the Regional Municipality of Peel. The Region has its own Code of Conduct.

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- 1.4 The Town of Caledon's Code applies to the activities of Members of Council while executing their responsibilities as Members of Council for the Town of Caledon. The Region's Code of Conduct will apply to the activities of Regional Councillors in accordance with their role with the Region.

Should an issue arise that is of joint responsibility for the Region and The Town, both Integrity Commissioners will work together to determine which Integrity Commissioner shall take carriage of the matter.

2. Confidentiality

- 2.1 Confidential information includes information in the possession of, or received in confidence by, the Town of Caledon that the Town is either prohibited from disclosing, or is required to refuse to disclose, under *the Municipal Freedom of Information and Protection of Privacy Act* or any other legislation.
- 2.2 Members shall not disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, or by means of electronic technology, except when required by law or authorized by Council.
- 2.3 Members shall not disclose the content of a matter that has been discussed or the substance of deliberations of a closed session, except for content that has been authorized by Council to be released to the public. Where appropriate, the Council may determine how to communicate that part of closed session matters that can or should be made known, without divulging any detail that should remain confidential.

Examples of the types of content that Members must keep confidential under this section are as set out in the *Municipal Act*, specifically:

- a) Matters discussed in confidential session under Section 239 of the *Municipal Act*;
 - b) The source of a complaint;
 - c) Price schedules in contract tender or Request for Proposal submissions if so specified;
 - d) Information deemed to be personal information under the *Municipal Freedom of Information and Protection of Privacy Act*;
 - e) Statistical data required by law not to be released (e.g., certain census or assessment data).
- 2.4 Members shall not access or attempt to gain access to confidential information in the possession of the Town unless it is necessary for the performance of their duties and not prohibited by law or Council policy.
- 2.5 The obligation to keep information confidential is a continuing obligation even after the Member ceases to be a Member.

3. Communications/Media Relations/Promotion

- 3.1 Members shall show respect for the decision-making process of Council and its Designated Boards and their Members. Information concerning adopting policies, procedures and decisions of the Council shall be conveyed openly, accurately and fairly.

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- 3.2 Members shall accurately communicate the decisions of Council and the Designated Boards even if they disagree with the decision.
- 3.3 At all times, Members will take steps to ensure that their communications and presence in all forms of social media will be fully compliant with the requirements of the Social Media Guidelines for Members of Council and Designated Boards and this Code of Conduct.
- 3.4 Members may communicate a position that is contrary to that determined by Town Council. In doing so, Members will accurately communicate the decisions of Town Council and refrain from making disparaging comments about other Members or about Council's processes and decisions.
- 3.5 A Member shall not use his/her office to promote or sponsor commercial products or events other than Town recognized, endorsed or sponsored products or events.
- 3.6 Accepting an invitation by the Town or the Office of the Mayor to attend an event celebrating the successful completion of a development or project or the opening of a new business within the Member's ward could serve as a legitimate business purpose and be seen as part of the responsibilities of office.
- 3.7 Accepting an invitation to attend a charity event, provided the Member of Council is not consistently attending such events during any given calendar year as a guest of the same individual or corporation, is also part of the responsibilities of holding public office.

4. Advice and support to Members

- 4.1 In support of the Members, the Integrity Commissioner will provide, from time to time, information, training and education about the Code and the law, and the implications of each.
- 4.2 Members will have ready access to the Integrity Commissioner for advice on the implications of the Code. Such advice:
 - a) must be requested in writing
 - b) will be provided by the Integrity Commissioner in writing
 - c) will be held confidential by the Integrity Commissioner
- 4.3 A member of Council who acts upon the written advice of the Integrity Commissioner may rely upon that advice provided that the Member has disclosed all known facts to the Integrity Commissioner. The Integrity Commissioner shall be bound by that advice provided that the information provided by the Member to the Integrity Commissioner at the time of disclosure remains unchanged.

5. Relations with Employees

- 5.1 Members of Council are elected legislators for the municipality. Employees are accountable only to the Chief Administrative Officer or his/her designate and are responsible for implementing the decisions of Council, ensuring the efficient and effective operation of municipal services.
- 5.2 Members shall acknowledge and respect the fact that employees work for the Town as a

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corporate body and are responsible for making recommendations that reflect their professional expertise and corporate objectives, without undue influence from any Members at any point in the policy making process.

- 5.3 Members shall acknowledge and respect the fact that Town employees carry out directions of Council as a whole and administer the policies of the Town. At all times carrying out the work of the Town, Members shall refrain from using their position to improperly influence employees in their duties or functions to gain an advantage for themselves or others.
- 5.4 Members shall refrain from publicly criticizing employees, in a way that casts aspersions on their professional competence and credibility.
- 5.5 Members shall not compel Employees to engage in partisan political activities.
- 5.6 Employees will provide support to Council required by Provincial statutes, Town By-laws and special meetings when approved by Council.
- 5.7 In the event that a Member desires a public meeting, which supplements a public meeting required by Provincial statute, or a municipal by-law, a Member shall make the request through Council or the Chief Administrative Officer.

6. Gifts, Hospitality and Benefits

- 6.1 The Town recognizes that occasional, moderate hospitality is an accepted courtesy of a business relationship. However, Members shall not accept any gift, benefit, service, entertainment or hospitality which could be seen to compromise their decision on a matter or create any obligation or special consideration by an individual, group or organization.
- 6.2 Members may only receive a gift, hospitality or entertainment that is received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office.
- 6.3 If Corporate Tables are provided by the Town at a charity event or fund-raising gala, a seat will be offered to each Member of Council. If there are seats remaining after each Member of Council has been contacted, the remaining seats will be offered to spouses of Members of Council.
- 6.4 Where Members of Council are invited to attend such events as guests of entities doing business with or in the Town, the rules laid out in 6.5 apply
- 6.5 If the value of a gift or benefit exceeds \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

- a) the nature of the gift or benefit;
- b) its source and date of receipt;
- c) the circumstances under which it was given or received;
- d) its estimated value;

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- e) what the recipient intends to do with any gift; and,
- f) whether any gift will at any point be left with the Town

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the Town.

6.6 Members shall submit to the Town any gift received which:

- a) is not an incident of protocol or social obligation; or
- b) is not a token of appreciation for attending or speaking at an event; or
- c) is not perishable.

6.7 The Town will provide the gift to a registered Caledon charity. The Chief Administrative Officer will log the gifts received and a letter of appreciation will be sent to the donor, where appropriate, advising their gift will benefit a Caledon charity.

6.8 Members of Council may claim expenses normally incurred in the conduct of their responsibilities in accordance with the Council Expense Policy.

7. Conflict of Interest – Pecuniary Interest

7.1 Members of Council and Designated Boards will recognize their obligations to follow and respect the provisions of the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50*. Members must publicly declare their direct or indirect pecuniary interest and file a statement of the conflict and the general nature of it with the General Manager Corporate Services/Town Clerk, as soon as possible after becoming aware of the conflict.

7.2 In considering whether or not to declare a conflict, Members should be guided by the overall Purpose of the Code, i.e. their duty to uphold public confidence in government. Members should consider whether the matter in question would meet the test of a pecuniary interest, or alternatively, a perceived interest.

7.3 Members of Council will not be required to declare a pecuniary interest when the interest is an interest in common with electors generally.

7.4 When a pecuniary interest exists, Members must withdraw from direct involvement and refrain from making any comment at any time, whether in a Council, Council Committee or Designated Board meeting, or elsewhere, on the issue which might influence the decision.

7.5 Members must refrain from influencing and discussing the matter. They are not eligible to vote on the matter. There are exceptions to the rules regarding Conflict of Interest set out in the legislation. Members should be aware of those exceptions, which are set out in Schedule A to this Code of Conduct.

7.6 Members shall vacate the Council or Designated Board table when the matter on which they have declared a direct or indirect pecuniary interest is debated.

7.7 If the matter is of a confidential nature, Members shall retire from the confidential meeting for the entire duration of the discussion. Members shall not vote on any aspect of the

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matter in question in which the Member has an interest refraining from any comment at any time, whether in a Council, Council Committee or Designated Board meeting, or elsewhere, on the issue.

8. Conduct at Meetings

- 8.1 During Council, Committee or any Designated Board meeting, Members shall conduct themselves with decorum and in accordance with the Town's Procedural By-law and/or the approved rules of each Designated Board, and this Code of Conduct. As leaders in the community, decorum requires Members to be held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary. Respect for a delegate, a fellow Member, employees and for the public requires Members to be courteous and not disrupt business during any portion of the meeting including presentations and when another individual has the floor.

Further to the provisions contained in the Town's Procedural By-law, cell phones, smart phones or similar devices shall be:

- a) on vibrate or silent while in open session;
- b) turned off while in closed session.

9. Elections – Corporate Resources

- 9.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996, S.O.1996 c.32* and the policies approved by Council. The use of corporate resources, both actual municipal property and staff time, 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 federal office.
- 9.2 Members shall not campaign, distribute or display any election material at any Town facility, Town hosted meeting or event except at all candidates' meetings.

10. Use of Corporate Resources

- 10.1 Members of Council may only use Corporate Resources for:
- a) activities connected with the discharge of their official duties;
 - b) associated community activities having the sanction of Council or its committees; and where applicable, in accordance with the Town's Council Expense Policy.

11. Compliance with the Code – Complaint Protocol

- 11.1 At all stages of the Compliance process, from Intake Review by the Commissioner, to any investigative processes undertaken by the Commissioner, and the reporting thereof to Council, confidentiality pertaining to the identity of the complainant and the respondent shall be respected, subject only to sections 16 and 17 of this Code of Conduct.

Option A - Informal Complaint Procedure

- 11.2 Any individual (i.e. a person entitled to vote or a person "demonstrably acting in the public

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interest”) who identifies or witnesses behaviour or activity by a sitting Member of Council or a Member of a Designated Board, that appears to be in contravention of the Code or the law may address the prohibited behaviour or activity themselves in the following manner:

11.3 The Complainant may:

- a) Advise the Member that his/her behaviour or activity appears to contravene the Code or the law;
- b) Request that the Member immediately discontinue the prohibited behaviour or activity and to avoid future occurrences of the prohibited behavior or activity;
- c) Keep a written record of the incident including date, time, location, other persons present, and any other relevant information;
- d) If applicable, advise the Member regarding his/her satisfaction with the response, or, if applicable; advise the Member of his/her dissatisfaction with the response; and,
- e) Consider the need to pursue the matter in accordance with the formal complaint or inquiry procedure outlined in Options B and C.

11.4 An individual is encouraged to initially pursue the informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code or the law. However, it is not a precondition or a prerequisite that the informal complaint procedure be initiated or completed prior to pursuing a formal complaint/inquiry procedure in Option B or C.

Option B: Formal Complaint Procedure - To the Integrity Commissioner - Complaint Review Request

11.5 Any individual (i.e. a person entitled to vote or a person “demonstrably acting in the public interest”) who identifies or witnesses behaviour or an activity by a sitting Member of Council or a Designated Board, that they believe is in contravention of the Code of Conduct for Members and Designated Boards, may file a formal complaint directly with the Integrity Commissioner in accordance with the following conditions:

- a) All complaints shall be made in writing and shall be dated and signed by an identifiable individual.
- b) The complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct. A supporting form setting out the evidence in support of the allegation must also be included. The assistance of the General Manager Corporate Services/ Town Clerk is available for assistance with completing the form, on request.
- c) If the complainant is a Member of Council, their identity shall not be protected if the Integrity Commissioner finds that the complaint was not made in good faith.

Filing of Complaint and Classification by Integrity Commissioner

11.6 The complaint shall be filed with Integrity Commissioner for initial classification (the Intake Review) to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council

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policies. If the matter pertains to an alleged breach of The *Municipal Conflict of Interest Act*, Option C of this Code applies.

- 11.7 If the complaint does not include a supporting form, the Integrity Commissioner may defer the classification or subsequent investigation until a form is received.

Complaints Outside Integrity Commissioner Jurisdiction at Intake Review stage

- 11.8 If the complaint is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation (except the *Municipal Conflict of Interest Act*) or complaint procedure under another Council policy, the Integrity Commissioner shall advise the complainant in writing as follows:

Criminal Matter

- 11.9 If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate Police Service.

Municipal Freedom of Information and Protection of Privacy Act

- 11.10 If the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the General Manager Corporate Services/ Town Clerk for Access and Privacy review.

Other Policy Applies

- 11.11 If the complaint appears to fall under another policy, the complainant shall be advised to pursue the matter under such policy.

Lack of Jurisdiction

- 11.12 If the complaint is for any other reason not within the jurisdiction of the Integrity Commissioner, the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

Matter Already Pending

- 11.13 If the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding related to the *Municipal Conflict of Interest Act*, a Human Rights complaint or similar process, the Integrity Commissioner may, in his/her sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process.

Option C: Inquiry Procedure - To the Integrity Commissioner - The Municipal Conflict of Interest Act (MCIA)

- 11.14 Any individual (i.e. a person entitled to vote or a person “demonstrably acting in the public interest”) may apply in writing to the Integrity Commissioner, pursuant to the *Municipal Conflict of Interest Act*, for an inquiry to be carried out concerning an alleged contravention

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of sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, except during the regular election period, i.e. between nomination day and election day,

- 11.15 The procedures to be followed for such an application shall be the same as provided for in section 14 of this Code.

As is the case with formal complaints under the Code of Conduct, the Integrity Commissioner will determine (the Intake Review) whether to conduct an inquiry, and if such an inquiry is undertaken the inquiry will follow the same general processes and procedures and use the same powers and authorities as apply under this Code of Conduct. If in the opinion of the Integrity Commissioner a request for an Inquiry under the *Municipal Conflict of Interest Act* would be more appropriately addressed under this Code of Conduct, the Integrity Commissioner shall proceed accordingly.

- 11.16 Upon completion of an inquiry, the Integrity Commissioner may, at his/her discretion;

- a) Apply to a Judge for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of the Act. If the judge finds that the Act has been contravened, under the *Municipal Conflict of Interest Act* the judge may order any or all of the following:
 - Reprimand the member
 - Suspend the remuneration paid to the member for a period of up to 90 days.
 - Declare the member's seat vacant
 - Disqualify the member from being a member during a period of not more than seven years after the date of the order
 - Require the member to make restitution
- b) Advise the applicant if the Commissioner will not be making an application to a judge.
- c) In either case, the Commissioner will publish written reasons, in the form of a Report to Council, for the decision.

12. Refusal to Conduct Investigation or Inquiry following the Intake Review

- 12.1 If the Integrity Commissioner is of the opinion that the referral of a matter is frivolous, vexatious or 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 inquiry and, where this becomes apparent in the course of an investigation, shall terminate the investigation or inquiry.

13. Opportunities for Resolution

- 13.1 Following receipt and review of a formal complaint, or at any time during the investigation, where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

14. Investigation

- 14.1 The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act* or any other relevant statute:

- a) Provide the complaint and supporting material to the member whose conduct is in

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- question (the respondent) with a request that a written response to the allegation be provided within ten business days; and
- b) Provide a copy of the response provided by the respondent to the complainant with a request for a written reply within ten business days.
 - c) If, in the sole discretion of the Integrity Commissioner, any further steps in the exchange of documents is necessary or warranted to provide the Commissioner with a full understanding of the circumstances, the Commissioner may seek further written comments from the parties, prior to finally reviewing the materials.
- 14.2 If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials and may enter any Town work location relevant to the complaint for the purpose of investigation and potential resolution.
- 14.3 The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation.
- 14.4 The Integrity Commissioner shall retain all records related to the complaint and investigation as prescribed in the Town of Caledon Records and Information Policy ("Records Retention Schedule").

No Complaint Prior to Municipal Election

- 14.5 Notwithstanding any other provision of this procedure no requests for a complaint review or inquiry may be referred to the Integrity Commissioner or forwarded by the General Manager Corporate Services/Town Clerk for review and/or investigation after the nomination day established in the Municipal Act and until the first official meeting of Council following the election.

15. Reports to Council

Annual Report

- 15.1 The Integrity Commissioner shall report to Council annually on the work undertaken by the office for the preceding year including a summary of all complaints received and their disposition (including complaints deemed not to be within the jurisdiction of the Integrity Commissioner) as well as a summary of the number of requests for advice, training, education and information provided by the Integrity Commissioner in that year.

Investigation and Inquiry Report

- 15.2 The Integrity Commissioner shall report to the complainant and the respondent member generally no later than 90 days after the official receipt of the complaint. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available.
- 15.3 If during the course of the investigation any new information is provided to the Integrity Commissioner, the Integrity Commissioner may in the interest of procedural fairness provide notice to the respondent Member of the new information.

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- 15.4 Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any sanctions imposed by the Integrity Commissioner as well as any recommended corrective actions.
- 15.5 The General Manager Corporate Services/Town Clerk shall give a copy of the report referred to in s.15.4 to the complainant and the respondent Member. Subject to the conditions in paragraph 15.7 below, that respondent Member shall have the right of reply when the report is considered by Council.
- 15.6 Where the complaint is not sustained, except in exceptional circumstances as determined by the Integrity Commissioner, the Integrity Commissioner shall not report to Council the result of the investigation except as part of an annual report.
- 15.7 If the report of the Integrity Commissioner includes sanctions of a pecuniary nature, such as the replacement of property or its value, of monies spent or suspension of remuneration paid to the Member, then the Member shall have a right to respond to the report during its consideration by the Council but shall not have the right to vote on the report.
- 15.8 It is a violation of the Code of Conduct to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the Code.

Member not Blameworthy

- 15.9 If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act*.

No Reports Prior to Municipal Election

Notwithstanding any other provision of this Procedure, the Integrity Commissioner shall not make any report to Council or to any other person after nomination day as established under the *Municipal Act* until the first official meeting of Council following the election.

16. Duty of Council

The General Manager Corporate Services/Town Clerk shall submit any investigation report by the Integrity Commissioner to Council at its next meeting and the report shall be considered in Open Session.

17. Public Disclosure

- 17.1 The Integrity Commissioner, General Manager Corporate Services/Town Clerk and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol. The *Municipal Act* sets out specific rules about confidentiality at s. 223.5 and 223.6.

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Such preservation of confidentiality shall extend to the identity of the complainant, the respondent and the nature of the complaint, except as set out in sections 11.16, 15.4 – 15.6 and 17.4 of this Code.

- 17.2 Persons filing a complaint or application for an inquiry under this Code of Conduct and the *Municipal Conflict of Interest Act* are urged at all times to keep those actions and associated documents confidential, in order to not interfere with the course of any subsequent investigation or inquiry.
- 17.3 The Integrity Commissioner shall retain all records related to the complaint and investigation as prescribed in the Town of Caledon Records and Information Management Policy (“Records Retention Schedule”).
- 17.4 At the time of the Integrity Commissioner’s report to Council, the identity of the person who is the subject of the complaint (the respondent) shall not be treated as confidential information if the Integrity Commissioner finds that a breach has occurred. Where there is ambiguity resulting from any provisions of this Code as to confidentiality during and at the conclusion of the procedures set out, the determination of the Integrity Commissioner shall be final.
- 17.5 All reports from the Integrity Commissioner to Council will be made available to the public on the Town’s website.

18. Non-Compliance with the Code

Where the Integrity Commissioner determines that a Member has contravened this Code; he/she is authorized to:

- a) Reprimand the Member;
- b) Recommend that Council remove the Member from an advisory committee or local board;
- c) Recommend that the appropriate Committee or local board remove the Member as Chair of a Committee or local board;
- d) Require the Member to repay or reimburse monies received;
- e) Require the Member to return the property or item, or reimburse the value;
- f) Request the Member to apologize to Council, the complainant, or both;
- g) Suspend the remuneration paid to the Member in respect of their services as a Member for a period of up to ninety (90) days.

Corporate Policy

SCHEDULE A

EXCEPTIONS UNDER MCIA AS TO WHAT CONSTITUTES A CONFLICT

Section 5 does not apply to a pecuniary interest in any matter that a member may have,

- (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 or Part IX of the City of Toronto Act, 2006, 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 council or local board when the council or 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 a 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.

Corporate Policy

SCHEDULE B

Subject: Social Media Guidelines for Members of Council and Designated Boards

Statement

Social media provides members with a valuable and convenient tool to communicate, inform and engage residents about Council work and members' activities. Social media allows for efficient and direct engagement between members and the public. When used in accordance with the Code of Conduct, social media enables members to communicate with the public regarding municipal issues and raises awareness of local events and activities.

The Social Media Guideline operates with and as a supplement to existing federal and provincial statutes and municipal by-laws including, but not limited to:

- Criminal Code of Canada
- Municipal Act
- Municipal Conflict of Interest Act
- Municipal Elections Act
- Municipal Freedom of Information and Protection of Privacy Act
- Ontario Human Rights Code
- Town of Caledon By-Laws and Policies including the Code of Conduct

Definitions

Code of Conduct: means the Town of Caledon's Council Code of Conduct as it applies to members of the Town of Caledon Council and of its local boards.

Electronic Address: means an address used in connection with the transmission of an electronic message to any similar account.

Member/Members: Refers to persons elected to the position of Mayor or Councillor and to all persons duly appointed by Council to the Town of Caledon's designated Committees, Boards and Task Forces, all of whom are hereinafter referred to as Member/Members.

Social Media: refers to freely accessible, third-party hosted, interactive Internet technologies used to produce, post and interact through text, images, video, and audio to inform, share, promote, collaborate or network. A non-exhaustive list of examples of social media include: Twitter, Facebook, Instagram, Snapchat, YouTube and LinkedIn.

Town: means The Corporation of the Town of Caledon.

Purpose

The purpose of this Guideline is to clarify how the Code of Conduct for Members of Council guides a member's use of social media.

Failure to follow the guidance set out in this Guideline may lead to a finding that a member has contravened the Code of Conduct. Members may seek confidential advice from the Integrity Commissioner with respect to specific situations that may arise.

Use of Title, Town Property, Services and Other Resources, and Influence of Office



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A social media account is “identified as a member’s social media account” or one that “uses publicly-funded resources” if it:

- a. uses any Caledon.ca email address as a point of contact for registration purposes;
- b. identifies the member as a current member of the Caledon Town Council in the handle name, the user name or the profile description;
- c. is publicized on the member’s constituency website or the Town of Caledon’s contact page for members of Council;
- d. uses the Town logo or any other proprietary mark of the Town of Caledon;
- e. contains official Town of Caledon contact information for the Member;
- f. is managed using Town of Caledon resources including computers, smart phones, tablets and/or staff.

Personal and professional social media accounts should be separate. If members are using a social media account that does not feature any of the above, this would be considered a personal account.

Regardless of whether the social media account used is a personal or professional one, the general rules established in the Code of Conduct apply. For clarity, comments on a personal social media account that breach the rules of appropriate behaviour will be treated in precisely the same way as if such comments were made verbally or in writing in different media.

Recognizing, however, that members of council regularly participate in events and activities and use social media to publicize them, the guideline includes a caveat that members may periodically post voluntary and unsolicited content that:

- a. Raises awareness of local events and activities;
- b. Publicizes the member’s attendance at a ceremony, event or activity that is otherwise permissible under the Code of Conduct; or,
- c. Publicizes the member’s interactions with constituents, including local businesses.
- d. Content that promotes or appears to promote any third-party interest including events, products, services, or goods other than Town recognized, endorsed or sponsored products or events.

Members of Council should abide by these guidelines whether they mention the Town by name or not.

General Guidelines

Use of a member’s title in a social media profile provides legitimacy, from the perspective of social media providers and the public. This legitimacy is similar to the use of letterhead or other official Town resources.

Successful social media use requires authenticity, interactivity and a blending of the personal with

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the professional. Members of Council should follow the guidelines below when making posts or comments on any social media site whether it is public or private.

1. As a Member of Council of the Town, members will approach social media by using sound judgement and common sense, using the Town's Code of Conduct, and other applicable policies as guidelines.
2. At no time shall Members of Council reveal, disclose, or discuss:
 - a. Information gained in the execution of his or her duties that is not available to the public. This includes confidential information from in camera and other meetings.
 - b. Private or confidential information about other Members of Council, Town staff, or members of the public.
 - c. Content that promotes or appears to promote any candidate or political party in any election at the municipal, federal, or provincial level, including leadership campaigns.
 - d. Content that promotes or appears to promote any third-party interest including events, products, services, or goods
3. If asked a question about Town operations (snow removal, pool times, etc.) Members of Council are asked to refer residents to the Town's official customer service channels on social media, phone, or email.
4. Members should not use social media to engage in criticism of Town staff, members of the public, or other Members of Council.

Social Media and Canada's Anti-Spam Legislation (CASL)

In general, CASL does not apply to the one-way general broadcast of a commercial message on social media. For example, this could include the general broadcasting of Tweets on Twitter. However, messages sent directly to users through a social media closed two-way direct messaging system, would qualify as sending messages to an "electronic address" under CASL and may be subject to legal action.

For Candidates during the campaign period in an election year, a message must be commercial in nature for CASL requirements to apply. Generally, most political messages are not commercial in nature; those that appear to be, tend to solicit contributions. Political messages where the primary purpose is to solicit a contribution are not excluded from CASL.

Specific Election Year Requirements

To comply with the *Municipal Elections Act*, the Code of Conduct, and the Town's Use of Corporate Resources for Election Purposes policy, members must take affirmative steps to clearly distinguish between use of social media for personal or election purposes. To take such steps members must adopt one of the following two approaches:

- a. Maintain Separate Election Accounts During an Election Campaign. Establish separate and distinct social media accounts for re-election purposes that are clearly labelled as election accounts and that are not identified as a member's account or use publicly-funded resources.

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- b. Maintain a Single Account Subject to Restricted Use During an Election Campaign. Members who choose not to maintain separate and distinct election accounts and who intend to use a social media account that has been identified as a member's social media account or use publicly-funded resources within the meaning of this Guideline for any purpose relating to their re-election must (as applicable):
 - i. on Nomination Day of an election year until the end of the "election campaign period" defined in s. 88.24 of the *Municipal Elections Act, 1996*,
 - 1. cease producing and distributing any publication, including business cards, that includes account information (i.e. user names, handle names) for the social media account.
 - ii. for the duration of the "election campaign period" as defined in s. 88.24 of the *Municipal Elections Act, 1996*:
 - 1. remove any reference to the Town of Caledon, the Town logos, or images proprietary to the Town of Caledon, and reference to the member's title from the account handle name, the user name, on the profile description;
 - 2. ensure that the account's registration information does not include any Caledon.ca email addresses or Town of Caledon phone numbers;
 - 3. remove all references to the account from a member's website;
 - 4. expressly notify followers or friends on the social media platform that the account will be used for purposes related to re-election, provide an alternative source of information for followers interested in constituency services, and label the account appropriately.

Confidential Information and In Camera Meetings

The Code of Conduct prohibits members from disclosing or releasing confidential information acquired by virtue of their office. Members must not post content on social media that discloses information or conduct during *in camera* meetings. Due to the immediacy of social media and its ease of access on smart phones or computers, members should not use social media in any form during *in camera* or other confidential meetings.

Respecting Staff

The Code of Conduct requires members to be respectful of the role of staff to provide professional and politically neutral advice. Members should not use social media to engage in criticism of Town staff. The public nature of social media can increase the risk of harming the professional and ethical reputation of Town staff.

Respecting Each Other and the Public

The public expect members of Council to maintain decorum at Town Hall, they expect members to act with decorum on social media. Members must never use social media as a platform to treat members of the public, one another or staff without respect.