

The Township of Cavan Monaghan

By-law No. 2018-10

Being a by-law to establish a Code of Conduct for Council members

Whereas Section 11 of the Municipal Act 2001, S.O. 2001, c.25 as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations;

And Whereas Section 223.2 (1) of the Municipal Act 2001, S.O. 2001 c.25 as amended, authorizes Council to pass a by-law to establish a code of conduct for members of the council of the municipality;

Now Therefore the Council of the Township of Cavan Monaghan hereby enacts as follows:

1. That Council hereby adopts the Council Code of Conduct, hereto as Schedule 'A';
2. That Schedule 'A' forms part of this By-law;
3. That this By-law shall come into forces and effect on the date of passing.

Read a first, second and third time and passed this 20th day of February, 2018.



Scott McFadden
Mayor



Elana Arthurs
Clerk



Council Code of Conduct

(Adopted February 20, 2018 by By-law No. 2018-10)

Application

This Code of Conduct applies to all members of the Township of Cavan Monaghan Council (Members) and is intended to help ensure that all Members share a common basis for acceptable conduct. This Code is designed to provide a reference guide and a supplement to the legislative parameters within which the Members must operate. These standards should serve to enhance public confidence that Cavan Monaghan's Council operate from a base of integrity, justice and courtesy.

The purpose of the Code of Conduct is to ensure that:

- a) all Members serve and be seen to serve their constituents in a conscientious and diligent manner;
- b) Members commit to performing their functions with integrity and to avoid the improper use of the influence of their office, and conflicts of interest, both real and apparent;
- c) Members perform their duties in office in a manner that promotes public confidence and will bear close public scrutiny;
- d) Members 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 Township Council.
- e) as a representative of the Township, every Member treats members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and that the municipal work environment is free from discrimination and harassment. A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member any member of staff or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability.

All Members are expected to follow this Code, the Council Procedural By-law and other sources of applicable procedural law such as but not limited to:

- Municipal Act, 2001
- Municipal Conflict of Interest Act

- Municipal Elections Act
- Municipal Freedom of Information and Protection of Privacy Act
- The Criminal Code of Canada

Sections of the Code of Conduct

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

1. Roles and Responsibilities
2. Confidentiality
3. Communications and Media Relations
4. Relations with Staff
5. Use of Township Property/Assets
6. Conduct Respecting Election Campaigns
7. Gifts, Hospitality and Benefits
8. Conflict of Interest
9. Transparency and Openness in Decision Making
10. Professional Development
11. Conduct at Meetings
12. Harassment
13. Non-Compliance

1.0 Roles and Responsibilities

- 1.1 Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for committees. Authority to act on behalf of Council, including through a committee, can only be delegated by Council or through law.
- 1.2 Council is responsible for and dedicated to providing good and effective government for the public in an open, accountable and transparent manner.
- 1.3 A fiduciary relationship exists between the Council and inhabitants of the municipality.
- 1.4 Members of Council:
 - a) when appointed to committees and other bodies as part of their duties must make every effort to participate actively in these bodies with good faith and care.
 - b) must uphold the law and conduct themselves with the highest degree of ethical behavior and integrity,
 - c) must avoid conflict of interest,
 - d) must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect, and

- e) may not make statements known to be false or make a statement with the intent to mislead Council or the public.

2.0 Confidentiality

- 2.1 Members have a duty to hold information received at closed meetings in strict confidence for a long and as broadly as the confidence applies. They must not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or required by law.
- 2.2 Members must not disclose, use or release information in contravention of applicable privacy law. They are only entitled to information in the possession of the municipality that is relevant to matters before the Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen.
- 2.3 Members must not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law.
- 2.4 No Member shall seek or obtain by reason of his/her office any personal privilege or advantage with respect to Township services not otherwise available to the general public and not consequent to his or her official duties.

3.0 Communications and Media Relations

- 3.1 Members will accurately communicate the decisions of Council even if they disagree with the majority decision of Council. Members shall show respect for the decision making process of Council.
- 3.2 Official information related to decisions and resolutions made by Council will normally be communicated to the community and the media in an official capacity by the Mayor or designate or through a press release issued by the Township.
- 3.3 Confidential information will be communicated only when determined by Council.
- 3.4 Notwithstanding the above, Members will adhere to the Communication Policy adopted by the Township of Cavan Monaghan on December 3, 2012.

4.0 Relations with Staff

- 4.1 Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategies through the work of staff. The role of Council is to lead through setting policy and budget. It is not to manage or administer. No Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the Township.

- 4.2 Staff members serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Members of Council have no individual capacity to direct members of staff to carry out particular functions. Staff establish the appropriate administrative policies, systems, structures and internal controls to implement the goals and objectives of Council, and manage implementation within the resources at their disposal.
- 4.3 Council should expect a high quality of advice from staff based on political neutrality and objectively irrespective of party politics, the loyalties of persons in power, or their personal opinions. No Member shall compel any staff member to engage in activities that are contrary to the directions of Council or the policies of the municipality.
- 4.4 Inquiries of staff from Members should be directed to the Chief Administrative Officer or the appropriate senior staff as directed by the Chief Administrative Officer.
- 4.5 No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
- 4.6 No Member shall use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

5.0 Use of Township Property/Assets

- 5.1 Council is the custodian of the assets of the municipality. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.
- 5.2 Members respect that the powers of the municipality are exercised by Council. Council, as a whole, is responsible for decisions that direct staff and establish the parameters for use of corporate resources to address municipal issues and provide service. For tasks or actions that require the commitment of significant staff time and/or resources, Members will pursue such action through recommendation and decision of Council. By doing so, all Members of Council confirm that the Corporation's interests and business are being advanced in compliance with all applicable rules and policies respecting the use of corporate resources.
- 5.3 No Member shall use Township facilities, services or property for his or her personal or business use. No Member shall use the services of persons for his or her personal or personal business use during the working hours for which those persons receive compensation from the Township.

6.0 Conduct Respecting Election Campaigns

- 6.1 During a municipal election, Members must conduct themselves in accordance with the provisions of the Municipal Elections Act, in addition to legislation and policies that are in place during the term of office, including this Code of Conduct.
- 6.2 It is the personal responsibility of each Member, acting also as a candidate, to ensure that their election campaign is carried out in accordance with all applicable legislation.
- 6.3 No member of Council shall use the facilities, equipment, supplies, services or other resources of the Township for any election campaign or campaign-related activities in any Township facility for the purpose of seeking the support of Township employees working in that facility. No member of Council shall use the services of persons for his or her election campaign purposes during the working hours for which those persons received compensation from the Township.
- 6.4 Members of Council can expect that the Township Clerk will manage the municipal election process and meet all statutory requirements in accordance within the Municipal Elections Act. Members of Council respect that the role of the Township Clerk and municipal staff is to ensure all candidates are treated equally and similarly.

7.0 Gifts, Hospitality and Benefits

- 7.1 No Member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his/her duties of office, unless permitted by the exceptions listed below. For these purposes, a fee or advance paid to, or a gift or benefit provided with the Member's knowledge to a Member's spouse, child or parent to a Member's staff that is connect directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member. The following are recognized as exceptions:
 - a) compensation authorized by by-law;
 - b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation.
 - c) food, lodging, transportation and entertainment provided by other levels of government, boards or commissions;
 - d) a political contribution otherwise reported by law;
 - e) services provided without compensation by persons volunteering their time;
 - f) a suitable memento of a function honouring the Member;
 - g) food and beverages consumed at banquets, receptions or similar events, if attendance is in keeping with his or her representative role;
 - h) communication to the offices of a Member, including subscriptions to newspapers and periodicals.

7.2 No Member shall seek or obtain by reason of his/her office any personal privilege or advantage with respect of Township services not otherwise available to the general public and not consequent to his or her official duties.

8.0 Conflict of Interest

Members of Council will recognize their obligations to follow and respect the provisions of the Municipal Conflict of Interest Act.

9.0 Transparency and Openness in Decision Making

Member of Council will endeavor to conduct and convey Council business in an open and public manner, other than for those issues that may be discussed in Closed Session as permitted under the Municipal Act, 2001, so that stakeholders can understand the process, logic and rationale which was used to reach decisions.

10.0 Professional Development

Members have an obligation to promote, support, pursue and partake in opportunities for professional development. Council Members are encouraged to stay updated on issues and trends so that they can be as efficient and effective as possible while carrying out their duties and responsibilities.

11.0 Conduct at Meetings

During Council, committee or any advisory committee meetings, Members shall conduct themselves with decorum and in accordance with the Township of Cavan Monaghan Procedural By-law. Respect for delegations, fellow Council Members and staff requires that all Members show courtesy and not distract from the business of Council during presentations and when other Members have the floor.

12.0 Harassment

12.1 Harassment of another Member, staff or any member of the public is prohibited under the Ontario Human Rights Code. In accordance with the Ontario Human Rights Code and the Township's Respect in the Workplace Policy, it is the policy that all persons be treated with dignity and respect in the workplace in an environment free of discrimination and of person and/or sexual harassment.

12.2 Harassment whether it occurs inside or outside the workplace but is related to the work environment or activities of elected office is considered to be harassment and is inappropriate behaviour for the purpose of this Code of Conduct.

12.3 Any complaints of harassment will be investigated in accordance with the procedures set out in the Township's Respect in the Workplace Policy.

13.0 Non-Compliance

13.1 Where a Member of Council, committee, local board, an employee of the Township or a member of the public has reasonable grounds to believe that a Member has breached this code, a complaint may be submitted to the Clerk's Department in prescribed form which will be forwarded to the Township's Integrity Commissioner who will process it in accordance with the Complaint Protocol attached hereto as Appendix 'A'.

13.2 The Integrity Commissioner is appointed by Township By-law in accordance with the Municipal Act, 2001 and is responsible for performing in an independent manner the functions assigned by the Township with respect to the application of the Code of Conduct.

13.3 All matters regarding allegations of transgression of the Code of Conduct shall be subject to the provisions of Section 239 of the Municipal Act and direction of Council shall be reported out in open Council as appropriate.

Appendix 'A'
Complaint Protocol for Code of Conduct

Application

This process applies to Members of the Township of Cavan Monaghan Council.

Integrity Commissioner

The Township of Cavan Monaghan Integrity Commissioner shall be responsible for the provision of services as established by Council which will include the following:

- a) To provide written and oral advice to Members, staff and members of the public, concerning the interpretation of and compliance with, the Code of Conduct governing the ethical behaviour of Members.
- b) To provide Council with specific and general opinions, advice and education on the interpretation of the Code, including revisions thereto.
- c) To conduct enquiries into a request made by Council, committee, member of staff or member of the public into whether a Member has contravened any applicable provision of the Code of Conduct.
- d) To attempt to settle any complaint between the complainant and the Member before commencing an enquiry.

Procedure for Making a Complaint

1. All complaints or requests for enquiries shall be submitted to the Clerks Department in the form provided in Schedule '1' and the Clerk shall forward them to the Integrity Commissioner.
2. All complaints or requests for enquiries must clearly state:
 - a) the Member to whom the complaint relates;
 - b) the nature of the alleged contravention;
 - c) the specific provision(s) of the Code of Conduct allegedly contravened;
 - d) names of any witnesses to the alleged contravention; and
 - e) written material in support of the alleged contravention.
3. Upon receipt of a complaint or request for enquiry, the Integrity Commissioner shall first determine if it is within his/her jurisdiction and whether there is a procedure under other legislation or Township policy to deal with the complaint. If it is determined that other procedures apply, the Integrity Commissioner shall refer the complainant to the appropriate person or agency to follow that process. This would include such matters as:

- a) the grievance provisions of a collective agreement;
- b) the complaint provisions under the Ontario Human Rights Code;
- c) a complaint of alleged criminal activity;
- d) procedures in the Municipal Act or the Municipal Elections Act;
- e) the complaint provisions of the Respect in the Workplace Policy.

Where it has been determined that a complaint should be dealt with under one of the above processes, it will no longer be considered or dealt with by the Integrity Commissioner and the time limits within the above processes will apply accordingly.

- 4. Upon receipt of a complaint or request to conduct an enquiry within his/her jurisdiction, the Integrity Commissioner will deliver a preliminary information report to an open meeting of Council including the following:
 - a) The opinion of the Commissioner as to whether the enquiry is appropriate and whether it can be conducted within the law applicable to such an enquiry.
 - b) An indication as to whether it is the Commissioner's intention to conduct the enquiry under the Public Inquiries Act.
 - c) A preliminary indication of the members of staff and/or consultants needed to assist the Commissioner.
 - d) An estimated cost of the enquiry.
 - e) The estimated time required to complete the enquiry and prepare a final report.
 - f) Where appropriate, the Commissioner may recommend that the alleged infraction be reported to the police and that the enquiry be suspended until the police investigation is completed.
- 5. If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith or that there are no grounds or insufficient grounds for an enquiry, the Commissioner shall not conduct an enquiry and shall state the reasons for not doing so in the preliminary report.

Confidentiality

- 1. The Integrity Commissioner shall carry out all enquiries in a manner which will ensure that the individual to whom the complaint relates is treated fairly and all complaints shall be treated as confidential to the extent possible and in accordance with the Municipal Act.
- 2. All records of investigations shall be kept confidential and access limited to those in the Township with a need to know for the purposes of conducting a full investigation.

Intake Procedures

1. Upon receipt of a complaint involving a Member other than the Mayor, the Clerk shall immediately advise the Mayor and Chief Administrative Office (CAO).
2. Upon receipt of a complaint involving the Mayor, the Clerk shall immediately advise the CAO and the Deputy Mayor.
3. The Integrity Commissioner may attempt to settle any complaint. Except where otherwise required by the Public Inquiries Act, the Commissioner shall provide a copy of the complaint and supporting material to the Member with a request for a written response to the allegation within ten days and provide a copy of such response to the complainant with a request for a written response also within ten days.

Investigations

After the presentation of the information report to Council, the Integrity Commissioner shall take all steps necessary to promptly investigate the complaint within his or her jurisdiction, including entering any Township office for such purpose and consultation with Township staff with access to all information and records described in subsections 3 and 4 of Section 223.4 of the Municipal Act and may retain independent professional services if required.

1. The Integrity Commissioner shall make every effort to complete an investigation within 30 days.
2. If the Integrity Commissioner requires more than 30 days to complete an investigation, the following shall be notified accordingly:
 - a) The complainant;
 - b) The individual to whom the complaint relates;
 - c) The Clerk; and
 - d) The Mayor in the case of a complaint concerning another Member or the Deputy Mayor in the case of a complaint concerning the Mayor.
3. A complaint involving an alleged contravention that has already been thoroughly investigated will not be re-investigated unless new evidence is presented.

Reporting the Results of an Investigation

1. The Integrity Commissioner shall report his/her findings to an open meeting of Council.

2. 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 judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
3. The Integrity Commissioner shall give a copy of the final report to the complainant and the Member's whose conduct is concerned 15 days prior to the Council meeting at which it will be considered.

Actions by Council

1. In reviewing the final report, Council will determine whether it will impose any of the following penalties on a Member if the Integrity Commissioner reports that is in his/her opinion that the Member has contravened the Code:
 - a) issue a motion of reprimand;
 - b) suspension of the remuneration paid to the Member in respect of his services as a Member for a period of up to 90 days;
 - c) request the Member involved to return any gift or benefit received in contravention of the Code of Conduct;
 - d) request the Member involved to repay the value of the benefit;
 - e) remove the Member from committee appointments;
 - f) request an apology; or
 - g) withhold confidential materials/matters for a period of time.
2. All reports to Council by the Integrity Commissioner on the investigation of complaints are public documents.
3. The Integrity Commissioner shall be responsible for ensuring the above procedures are followed with respect to request for enquiries and for conducting the investigations. Township Council shall be responsible for determining penalties where appropriate.

