



THE CORPORATION OF THE TOWN OF WHITBY

Boards and Advisory Committees Code of Conduct

A By-law to establish a code of conduct for Members of
Boards and Advisory Committees

This document has been reproduced for convenience only and
is a consolidation of "Boards and Advisory Committees Code of
Conduct By-law # 7246-17", adopted by the Council of the
Town of Whitby on 21st day of February, 2017.

As Amended by By-laws:

By-law Number:	Date Passed:
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# 7442-18	July 23, 2018
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# 7508-19	May 27, 2019
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# 7738-21	April 26, 2021
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Individual copies of any of the above by-laws are available from the Office of the Town Clerk of the Town of Whitby. For legal purposes, copies of the original by-laws should be obtained.

Schedule A to By-law # 7246-17

Boards and Advisory Committees Code of Conduct Statement

The Boards and Advisory Committees Code of Conduct is a public declaration of principles of good conduct and ethics reasonably expected from individuals appointed by the Council of the Town of Whitby to Boards and Advisory Committees.

Purpose

The principal objective of this Board and Advisory Committees Code of Conduct is to outline the behaviours expected of all Members to ensure that:

- All municipal affairs are conducted with professionalism and integrity;
- Advisory Committees operate in a transparent and accessible manner that supports effective public consultation and engagement;
- Decisions are made through appropriate channels of government structure;
- The position is not used for personal gain; and,
- The conduct of Members is of the highest standard.

Scope

This Code applies to Members of Advisory Committees appointed by Council. It is incumbent upon Members to be aware of, and understand, statutory and municipal obligations imposed upon the Advisory Committee and Members individually. This Boards and Advisory Committees Code of Conduct is supplementary and should be viewed in conjunction with existing legislation and policies.

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1. Definitions

- 1.1 **Advisory Committee** means a board or committee established by Council to advise Council on various matters of municipal concern or to fulfill quasi-judicial, legislative or governance function as delegated by Council in accordance with the Municipal Act, 2001 or any other Act, but does not include the Whitby Public Library Board or the Whitby Hydro Board of Directors.
- 1.2 **Code** means this Boards and Advisory Committees Code of Conduct adopted by Council.
- 1.3 **Complaint** means an alleged contravention of the Code submitted as per the formal complaint process outlined in the Code.
- 1.4 **Confidential Information** means any information that is of a personal nature concerning Town employees or clients or information that is not available to the public, such as third party technical, commercial or financial information which, if disclosed, could result in loss or damage to the municipality or could give the person to whom it is disclosed an advantage and includes, but is not limited to:
- Information that is circulated to Members and marked as “confidential”;
 - Information that is discussed at a closed session;
 - A record or part of a record that the Municipal Freedom of Information and Protection of Privacy Act, as amended, provides the head shall refuse to disclose;
 - Information regarding personal matters about an identifiable individual, including personnel matters;
 - Information relating to legal matters and negotiations;
 - Information regarding complaints where the identity of the complainant is given in confidence; and,
 - Information which may prejudice the reputation of the Town, its officers and employees or its effective operation.
- 1.5 **Council** means the Council of the Corporation of the Town of Whitby and/or the persons filling the offices thereof, as the context requires.
- 1.6 **Employee** means a person employed by the Town of Whitby, including those on contract, but does not include Members.
- 1.7 **Family Member** means a child, parent, and/or spouse as defined by the Municipal Conflict of Interest Act, R.S.O. 1990.
- 1.8 **Gift or Benefit** means anything of value including but not limited to cash or monetary equivalent, fee, object of value, service, meal, travel, accommodation or entertainment.

- 1.9 Integrity Commissioner** means the officer appointed by Council pursuant to Section 223.3 of the Municipal Act, 2001.
- 1.10 Member** means either a non-voting or voting person on an Advisory Committee who was appointed in accordance with the Terms of Reference established for the Advisory Committee or by Council, but does not include an Employee.
- 1.11 Office** means the authority and duties attached to the position of being an appointed Member of an Advisory Committee.
- 1.12 Pecuniary Interest** means an interest, direct or indirect, as defined under the Municipal Conflict of Interest Act, R.S.O. 1990.
- 1.13 Town Clerk** means the Clerk for the Corporation of the Town of Whitby or the Clerk's designate.
- 1.14 Town Property** means items, services, or resources which are the property of the Town of Whitby including but not limited to: materials, equipment, vehicles, facilities, technology, intellectual property, Town-owned images, logos and supplies.

2. Responsibilities

- 2.1** Every Member shall observe and comply with every provision of this Code, as well as all applicable legislation and other policies and procedures adopted or established by Council.
- 2.2** The role of Members is outlined in the Corporate Policy for Boards and Advisory Committees of Council in addition to the Terms of Reference established by Council for each Advisory Committee, as may be amended from time to time.

3. Conduct at Meetings

- 3.1** Every Member shall conduct himself or herself properly and in a civil manner at Council or Advisory Committee meetings and in accordance with the provisions of the Town's Procedure By-Law, this Code of Conduct and other applicable policies or laws.

4. Conduct Respecting Others

- 4.1** Every Member has the duty and responsibility to treat Council, the public, one another and Employees appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.

- 4.2 The Ontario Human Rights Code and the Occupational Health and Safety Act recognize the right to freedom from harassment. Under the Ontario Human Rights Code and the Town's Respect in the Workplace Policy, all persons are to be treated with dignity and respect in the workplace in an environment free of abuse, discrimination and of personal and/or sexual harassment.
- 4.3 Harassment, whether it occurs inside or outside the workplace but is related to the work environment is considered to be harassment and is inappropriate behaviour for the purpose of this Code.
- 4.4 Any complaints of abuse, bullying, intimidation or harassment will be investigated in accordance with the procedures set out in the Town's Respect in the Workplace Policy and may be subject to an investigation under this Code.

5. Code Respecting Staff

- 5.1 Under the direction of the CAO and Senior Management Team, and in accordance with the decisions of Council, municipal Employees are required to serve the municipal corporation as a whole.
- 5.2 Every Member shall be respectful of the role of Employees to provide advice based on political neutrality and objectivity and without undue influence from any Member. Accordingly, no Member shall injure or impugn the professional or ethical reputation of any Employee. Every Member shall show respect for staff and for their professional capacities and responsibilities.
- 5.3 No Member shall compel any Employee to engage in partisan political activities, or subject any Employee to threat or discrimination for refusing to engage in such activity.
- 5.4 No Member shall use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any Employee or interfering with that person's duties, including the duty to disclose improper activity.

6. Advisory Committee / Staff Working Relationships

- 6.1 Members are appointed by Council to provide advice to Council or exercise a power delegated by Council. Employees are ultimately accountable to the Chief Administrative Officer and are responsible for implementing the decisions of Council, and ensuring the efficient and effective operation of municipal services.
- 6.2 Members and Employees will work cooperatively based on shared values of honesty, trust, mutual respect, and leadership for continuous improvement.

- 6.3** Members are encouraged to contact Employees to answer questions, identify concerns or request services that are normally available to any Whitby resident.

7. Gift and Benefit

- 7.1** A Gift or Benefit to a Member's Family Member that is connected directly or indirectly to the performance of the Member's duties is deemed to be a Gift or Benefit to the Member if provided with the Member's knowledge or solicited by the Member.
- 7.2** A Member shall not solicit or accept any Gift or Benefit that:
- a) is intended to influence, might influence or could reasonably be perceived that it might influence or is intended to influence, the Member in the performance of the Member's duties; or,
 - b) is intended, or could reasonably be perceived that it is intended, as a reward for any action or impending action by the Member
- 7.3** Notwithstanding Section 7.1, Members may accept the following:
- Food or beverages, of a reasonable value, at a banquet, reception, ceremony or similar event that the Member attends for a legitimate municipal purpose.
 - A token gift such as a souvenir, memento or commemorative item that is given in recognition of service, for speaking at an event, or representing the Town at an event.
 - Compensation authorized by Council or law.

8. Confidential Information

- 8.1** Members may have access to Confidential Information by virtue of their position with the Town of Whitby.
- 8.2** No Member shall disclose or release, by any means, to any person other than those who are entitled to have access, any Confidential Information acquired by virtue of their appointment, in either oral or written form, except when authorized by Council or law.
- 8.3** The obligation to keep Confidential Information confidential is a continuing obligation even if the Member ceases to be a Member.
- 8.4** Members have the same access rights to municipal information as any other resident of the municipality, unless the information relates specifically to a matter before the Advisory Committee. Requests for information should be

referred to the appropriate Employee to be addressed either as an informal request to access municipal records, or as a formal request under the Municipal Freedom of Information and Protection of Privacy Act.

9. Open, Transparent Government

- 9.1** Members will promote behaviour and actions conducive to an open and fair exchange of ideas in accordance with the Council's Accountability and Transparency policy.
- 9.2** Members will be advocates for the public process, and will ensure decisions are made in an open, transparent and democratic manner.

10. Municipal Resources / Uses of Town Property

- 10.1** Members will only use Town Property for activities associated with their duties as a Member, unless otherwise approved by the Mayor and Chief Administrative Officer or as specified within a Council approved policy.
- 10.2** In the event a Member is nominated for a position governed by the Municipal Elections Act, 1996 (MEA), the Member shall comply with the MEA and procedures developed and approved by the Town Clerk and/or Council for the use of corporate resources for election purposes.

11. Improper Use of Influence

- 11.1** No Member shall use the influence of his or her appointed position for any purpose other than for the lawful exercise of his or her official duties as a Member.
- 11.2** Without limitation, no Member shall use his or her appointed position to influence, or attempt to influence, the decision of any other person, for the Member's private advantage or that of a Member's Family Member.

12. Compliance

- 12.1** All Members shall be aware of and comply with this Code.
- 12.2** Members are accountable to Council and, in addition to any other consequence imposed by law, Members found to have breached this Code may be subject to discipline or corrective action up to and including removal from the Advisory Committee(s) to which they have been appointed.
- 12.3** Any individual, including members of the public, Town employees and Members who have reasonable grounds to believe that a Member has breached a provision of the Code may proceed with a complaint. Complaints

must be submitted within six (6) weeks of the matter becoming known to the individual and no more than six (6) months after the alleged violation occurring. The Town Clerk shall be responsible for ensuring compliance with these deadlines, and shall take no action on a Complaint received beyond these deadlines.

- 12.4** A Complainant does not have to pursue the informal complaint process set out in the following section prior to pursuing the formal complaint process.

13. Procedure – Informal Complaint

- 13.1** Any individual who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code may address their concerns in the following manner:

- Advise the Member that their behaviour or activity appears to contravene the Code;
- Encourage the Member to stop the prohibited behaviour or activity;
- If applicable, confirm to the Member your satisfaction or dissatisfaction with the response received to the concern identified;
- Keep a written record of the incidents including dates, times, location, other persons present and any other relevant information including steps taken to resolve the matter.

- 13.2** If not satisfied with the response received through the informal process, an individual may submit a formal Complaint to the Town Clerk as outlined in the following section.

14. Procedure – Formal Complaints

- 14.1** Any individual who believes that a Member has contravened the Code may make a request (the “Complaint”) that the matter be formally reviewed. Every Complaint shall:

- a) be in writing;
- b) set out the grounds for the belief and the contravention alleged;
- c) Be signed by an identifiable individual or authorized signing officer of an organization;
- d) include a supporting document(s) that sets out the evidence in support of the Complaint;
- e) include the original or copy of any supporting documentation or other supporting material available to the complainant; and
- f) include the name and contact information of the complainant and any witness.

- 14.2** The Complaint may be submitted directly to the Integrity Commissioner, or to the Town Clerk who shall immediately forward it to the Integrity Commissioner.
- 14.3** Upon receipt of the Complaint, the Integrity Commissioner shall possess all the authority provided by Part V.1 of the Municipal Act, 2001, and may conduct a review and/or investigation under Section 15 of this Code.

15. Investigations

- 15.1** If the Integrity Commissioner is of the opinion that the Complaint is frivolous, vexatious or not made in good faith, or that there are insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the parties and, at the Integrity Commissioner's discretion, to Council.
- 15.2** If at any time during an investigation, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are insufficient grounds for an investigation, the Integrity Commissioner shall discontinue the investigation and shall communicate this position in writing to the complainant and the Member identified in the formal complaint.
- 15.3** If the Integrity Commissioner discontinues an investigation in accordance with the above section the Integrity Commissioner is under no obligation to prepare a report for any matter after an investigation is discontinued.
- 15.4** If at any time, following the receipt of a formal Complaint or during the investigation process, 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 made to achieve an informal resolution.
- 15.5** If the Integrity Commissioner determines that a formal investigation is required, he/she shall proceed with an investigation, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under the Public Inquiries Act.
- 15.6** Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as the relevant facts known to the Member were disclosed to the Integrity Commissioner.
- 15.7** The Integrity Commissioner will provide a copy of the Complaint to the Member who is the subject of the Complaint, with a request that a written response to the allegation be provided to the Integrity Commissioner.

- 15.8** During an investigation, the Integrity Commissioner may review any submitted materials, speak to anyone, enter any Town work location relevant to the Complaint, and access and examine any other documents or electronic materials necessary to complete the investigation.
- 15.9** The Integrity Commissioner may make interim reports to Council if necessary. Upon completion of the investigation, the Integrity Commissioner shall present a confidential report to a meeting of Council outlining the findings of the investigation, the terms of any resolution and any recommended action including but not limited to the imposition of penalties.
- 15.10** Council shall have the sole authority to impose or not impose the penalties recommended by the Integrity Commissioner.

16. Confidentiality

- 16.1** The Integrity Commissioner shall preserve the confidentiality of all matters that come to his or her knowledge in the course of his or her duties and shall disclose information only in accordance with this Code or as otherwise required by law.
- 16.2** During the course of an investigation, the Integrity Commissioner shall only circulate information regarding the Complaint to persons requiring access in order to provide information as part of that investigation, including the Member. As per Sections 14.1 and 15.5 of this Code, the identity of the complainant will be shared with the Member.
- 16.3** Further to Section 223.6 of the Municipal Act (the “Act”), unless the Integrity Commissioner’s report is regarding a Member of a local board as defined by Section 223.1 of the Act, the report shall be kept confidential and shall not be made available to the public.

17. Response to Complaints Outside of Jurisdiction

- 17.1** If the Complaint received by Council or the Integrity Commissioner is deemed not to be a Complaint with respect to non-compliance with the Code, the Council or Integrity Commissioner shall advise the complainant in writing as follows:
- a) **Criminal Matter** – if the Complaint is an allegation of a criminal nature consistent with the Criminal Code of Canada, the Complainant shall be advised that pursuit of such an allegation must be made through the appropriate Police Service.
 - b) **Municipal Conflict of Interest** – if the Complaint is an allegation with respect to matters under the Municipal Conflict of Interest Act (MCIA), the Complainant shall be advised as to the relevant MCIA process.

- c) **Municipal Freedom of Information and Protection of Privacy Act** – if the Complaint is more appropriately addressed under the Municipal Freedom of Information and Protection of Privacy Act, the matter shall be referred to the Office of the Clerk for review under that Act.
- d) **Matter Already Pending** – if the Complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, Human Rights complaint or similar process, the Integrity Commissioner may, in his/her sole discretion, suspend any investigation pending the result of the other process.
- e) **Other** – if the matter is covered by other policies or legislation, the Complainant will be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner.

18. Reprisals and Obstruction

- 18.1 Members shall respect the integrity of the Boards and Advisory Committees Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is prohibited. It is also a violation of this Code to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

19. Records and Review

- 19.1 The Town Clerk shall maintain a comprehensive record of all formal Complaints submitted with respect to the Code and the details and decisions associated with each complaint.
- 19.2 In rendering any judgement or decision with respect to a Complaint, the comprehensive record of Complaints and decisions rendered shall be consulted with a view to maintaining consistency in the application of the Code.

20. Interpretation

- 20.1 Members seeking clarification on any part of this Code may consult with the Integrity Commissioner subject to the approval of the Town Clerk.

21. Regular Review and Implementation

- 21.1 The Boards and Advisory Committees Code of Conduct shall be reviewed by Council at least every five (5) years, with such review preferably occurring shortly after the Council inauguration following a regular municipal election.

21.2 This Code shall be distributed by the Town Clerk to each Member upon adoption by Council, and to new Members upon appointment by Council.