

# **Schedule A to By-law 14-73**

## **Town of Grimsby**

### **Code of Conduct for Members of Council**

#### **Purpose of the Code of Conduct**

A written Code of Conduct helps to ensure that the members of Council share a common basis for acceptable conduct. These standards are designed to provide a reference point and a supplement to the legislative parameters within which the members must operate. These standards should serve to enhance public confidence that the Town's elected representatives operate from a base of integrity, justice and courtesy. It is not intended to replace personal ethics.

The Code of Conduct shall apply to every member of a Town of Grimsby Local Board or Committee. All conduct defined in this Policy for a member of Council shall include members of the Town of Grimsby Local Boards and Committees.

This Council Code of Conduct is a general standard that augments the provincial laws and municipal by-laws that govern their conduct.

#### **Scope of the Code of Conduct**

This Code of Conduct applies to every member of Council. Members of Council are encouraged to discuss any situations of concern or doubt regarding the code with the Mayor. The Code of Conduct helps to ensure that the members of Council share a common basis for acceptable conduct and provide a reference guide and supplement to the legislative parameters within which the members of Council must operate.

The Code of Conduct is a general standard that augments the provincial laws and municipal by-laws that govern the conduct. It is not intended to replace personal ethics.

#### **General Principles**

All members of Council shall observe the highest standard of ethical conduct. They are expected to act honestly, independently, impartially, with discretion and without regard to self-interest and to avoid any situation liable to give rise to a conflict of interest. They are expected to be mindful of the importance of their duties and responsibilities, to take into account the public character of their function and to conduct themselves in a way that maintains and promotes the public's trust in the Town of Grimsby. All members shall serve their constituents in a conscientious and diligent manner. No member shall use the influence of office for any purpose other than the exercise of his or her official duties.

**Foster Respect for Decision-making Process**

All members of Council shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.

A member of Council who expresses disagreement with a decision of Council shall make it clear that he or she is expressing a personal opinion.

Members of Council shall conduct themselves at Council meetings in accordance with the provisions of the Town's Procedural By-law.

**Release of Confidential Information Prohibited**

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with at meetings closed to the public. A member of Council shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the meeting closed to the public deliberations to anyone, unless expressly authorized by Council or required by law to do so.

Members of Council shall not release information in contravention of the provisions of the Municipal Freedom of Information and Protection of Privacy Act.

Members of Council shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so.

Members of Council shall not misuse confidential information (information that they may have knowledge of by virtue of their position as a member of Council that is not in the public domain, including emails and correspondence from other members of Council or third parties) such that it may cause detriment of the Corporation, Council or others, or benefit or detriment to themselves or others.

**Avoiding Conflict of Interest and Unethical Behaviour**

Members of Council shall avoid conflict of interest or unethical behaviour. This policy will assist members of Council to identify and handle potential conflicts of interest and provide a useful reference guide to help to ensure consistency in dealing with situations. It is intended to supplement other professional codes in use.

**Compliance with the Municipal Conflict of Interest Act and Avoidance of Conflicts**

The members of Council shall fully comply with the provisions of the Municipal Conflict of Interest Act. This Act outlines the procedure to be followed if a party wishes

to pursue an alleged contravention of the Municipal Conflict of Interest Act. Members of Council shall also avoid conflict of interest or unethical behaviour.

Members of Council shall not use their position within the Town to gain any particular interest, personal or family advantage or benefit in utilizing any service provided by the Town or in conducting any business on behalf of the Town.

Members of Council shall not be involved as an official of the Town in judging, inspecting or making a decision on any matter in which they have a personal or family interest. Any Member of Council involved shall immediately declare a conflict of interest as soon as such conflict is identified.

### **Respect, Truth, Honestly and Integrity**

- 1) Members of Council shall respect the values of truth, honesty and integrity in all Town matters, issues and activities.
- 2) Members of Council shall not impose their personal, moral or religious standards on others as every person is an individual with specific rights, values, beliefs and personality traits to be respected at all times.
- 3) Members of Council shall respect the right to confidentiality and privacy of all clients, volunteers and employees and be aware of their responsibilities under relevant legislation, corporate and departmental policies, ethical standards and where appropriate, professional standards. No discussion regarding clients, volunteers or employees will be conducted other than with authorized persons in accordance with corporate and department policy.

### **Pursuit of Excellence**

- 1) Members of Council shall act in the best interest of the community, in a responsible manner and be held accountable for their actions.
- 2) Members of Council shall strive to achieve the highest standards of competence.
- 3) Members of Council shall be cognizant of their position by clients and community agencies. Employees shall ensure that they are operating in a manner that does not violate trust relationships or abuse the power of the position.

### **Gifts and Benefits**

Members shall not accept fees, gifts, hospitality or personal benefits that are connected directly or indirectly with the performance of duties as Members of Council, except compensation authorized by law.

This section does not apply to tokens, mementoes, souvenirs, or such gifts or benefits that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of office.

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

### **Conduct**

As representatives of the Town, every member of Council has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure 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 the person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability.

### **Influence on Staff**

Under the direction of the Town Manager, Town staff serve Council as a whole. Without a specific delegation from Council, no individual member of Council has executive authority over municipal staff. Members of Council shall be respectful of the fact that staff work for the Town as a body corporate and are charged with making recommendations to Council that reflect their professional expertise and a corporate perspective without undue influence from any member or group of members. Members of Council shall not maliciously or falsely injure the professional or ethical reputation of staff.

### **Complaint Procedure**

The procedure for filing complaints alleging that a member of Council has contravened the Code shall be governed by the following Complaint Protocol.

Upon receipt of a formal complaint alleging that the Code of Conduct has been contravened, the Clerk shall recommend the services of a qualified candidate to be appointed as Integrity Commissioner and Council shall appoint that Individual who shall report to Council and who is responsible for performing in an independent manner, an inquiry regarding the alleged contravention by a member of Council.

## **Complaint Protocol**

### **A. Informal Complaint Procedure**

Council, a member of Council or a member of the public who has identified or witnessed behaviour or an activity by a member of Council that they believe is in contravention of the Code of Conduct who wishes to address this behaviour or activity through the informal complaint procedure shall:

1. File a written request and supporting affidavit with the Clerk, noting grounds for belief of an alleged contravention including, dates, times, locations, other persons present and any other relevant information.
2. The Clerk shall provide to the subject member of Council a copy of the allegation without disclosing the identity of the complainant;
3. The member of Council will be provided ten working days in which to provide the Clerk with a written response to the allegation;
4. The complainant will be provided with a copy of the member's response and be given ten working days in which to:
  - i. Provide a written response to the Clerk stating satisfaction with the response; or,
  - ii. Provide a written response to the Clerk stating dissatisfaction with the response and the need to pursue the matter in accordance with the Formal Complaint Procedure of this protocol.
5. The Clerk shall advise the member of the complainant's position.

Anyone wishing to file a request for an investigation is encouraged to initially pursue the Informal Complaint Procedure as a means of stopping and remedying the behaviour or activity that is inconsistent with the Code of Conduct. However, it is not a precondition or prerequisite that the complainant pursue the Informal Complaint Procedure prior to pursuing the Formal Complaint Procedure.

### **B. Formal Complaint Procedure: Integrity Commissioner**

#### **1. Request for Inquiry**

- i. Where a Council, member of Council, or a member of the public have reasonable and probable grounds to believe that a member of Council has contravened the Code of Conduct, such person may request that the matter be reviewed by the Integrity Commissioner.

#### **2. Complaint**

- i. The fee to initiate a formal request is \$200.00, payable in cash, or certified cheque to the Municipality. This filing will be refunded if it is

determined by the Integrity Commissioner that the complaint warrants proceeding to the investigation stage.

- ii. The request shall be in writing and shall set out the grounds for the belief of the alleged contravention and shall include a supporting affidavit that states evidence in support of the complaint.
- iii. The Clerk or Deputy Clerk is authorized to take the supporting affidavit.

### 3. Initial Classification by Integrity Commissioner

3.1 The request shall be filed with the Clerk who shall forward the matter to the Integrity Commissioner for initial classification with respect to non-compliance with the Code of Conduct.

### 3.2 Incomplete Request

If the complaint does not include a supporting affidavit, the request will be deemed incomplete and returned to the complainant by the Clerk.

### 3.3 Requests Not Applicable to the Code of Conduct

If the complaint, including the supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or constitutes a complaint that should be pursued under other legislation, the Integrity Commissioner shall instruct the Clerk to advise the complainant in writing as follows:

- a) 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 the proper recourse is to pursue the matter with the appropriate Police Force;
- b) if the complaint on its face is with respect to non-compliance with the *Municipal Conflict of Interest Act*, the complainant shall be advised to pursue the matter with their own legal counsel;
- c) if the complaint on its face is with respect to non-compliance with a more specific Council policy, the complainant shall be advised that the matter will be processed under that policy;
- d) If the complaint, on its face, is not with respect to non-compliance with matters described in a) b) or c) above, but is not within the jurisdiction of the Integrity Commissioner, the complainant shall be so advised.

### 3.4 Reports

The Integrity Commissioner shall report to Council when a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose confidential information that could identify a person concerned.

## 4. **Integrity Commissioner's Investigation**

### 4.1 Refusal to Conduct Investigation

The Integrity Commissioner shall terminate the investigation if in his or her opinion the 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 report to Council that a specific complaint has been terminated, but shall not disclose confidential information that could identify a person concerned.

### 4.2 Investigation

If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under the previous section, the Commissioner shall conduct an investigation.

The Integrity Commissioner will proceed as follows:

- a) Bearing in mind the confidentiality requirements of the *Municipal Act, 2001*, it will be at the discretion of the Integrity Commissioner whether to disclose the identity of the complainant to relevant parties in order to facilitate the investigation. Any party to this investigation who is made aware of the identity of the complainant is bound to maintain the secrecy of the complainant and is not to use this information for any purpose other than to provide a full answer or defense to the complaint.
- b) File a copy of the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation by way of affidavit be filed within ten working days; and
- c) Serve a copy of the response provided upon the complainant with a request for a written reply within ten working days.

If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, examine any other documents relevant to the complaint and may

enter any municipal work location relevant to the complaint for the purposes of investigation.

The Integrity Commissioner may make interim reports to Council as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

#### 4.3 Final Report

- a) The Integrity Commissioner shall report to the complainant and the member no later than 90 days after the filing of the complaint with the Clerk.
- b) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings and when applicable, recommend corrective action, while maintaining the confidentiality of the complainant.
- c) Where the complaint is dismissed, the Integrity Commissioner shall report to Council, maintaining the confidentiality of any information that could identify a person concerned.

#### 4.4 Lawful Recommendations

Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.

#### 4.5 Member not Blameworthy

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 shall provide a report to Council and shall make recommendations with respect to any corrective action, having regard for the findings.

#### 4.6 Copies

The Clerk shall give a copy of the report to the complainant and the member whose conduct is the subject of investigation.

4.7 Report to Council

The Clerk shall process all reports of the Integrity Commissioner to the next available meeting of Council.

4.8 Publication of Reports

The Clerk shall ensure that reports received from the Commissioner by the Municipality are made available to the public.

**5. Council Review**

5.1 Duty of Council

Council shall consider and respond to the report within 90 days after the day the report is presented at a meeting of Council.

5.2 Penalties

Council may impose one of the following penalties on a member of Council if the Integrity Commissioner reports that in his or her opinion, the member has contravened the Code of Conduct:

- 1) a reprimand; or,
- 2) suspension of remuneration paid to the member in respect of his or her services as a member of Council, for a period of up to 90 days.

**6. Request for Reimbursement of Member's Costs**

A member of Council who is party to a complaint under this procedure where the findings of the Integrity Commissioner do not substantiate a contravention of the Code of Conduct or that the member was not blameworthy as set out in Section 4.5 of this protocol, may apply to the Municipality for reasonable reimbursement and relevant expenses. Such application shall be referred to the Municipality's solicitor for a ruling on whether reimbursement under the By-law is applicable.