

**MUNICIPALITY OF POWASSAN
COUNCIL CODE OF CONDUCT - 2011**

INTRODUCTION:

- The Ontario Municipal Act, Part V (1), Section 223 provides authority for municipalities to establish codes of conduct for Council members and members of local boards
- This Code of Conduct applies to the Mayor and all Municipal Councilors, commonly referred to as Members of Council.
- At the commencement of each term, Members of Council will be expected to sign two copies of the Code of Conduct and in doing so will convey to each other and all other stakeholders that they have read, understood, will accept and agree to abide by it.
- This Code of Conduct is supplementary to existing legislation and policies and is meant to be considered, in whole, with existing laws.

ROLES AND OBLIGATIONS:

- The Code of Conduct sets minimum standards for acceptable conduct of Council Members in carrying out their function. It has been developed to assist Council to:
 - understand the standards of conduct that are expected of them and the law that applies to that standard
 - fulfill their duty to act honestly and exercise reasonable care and diligence
 - ensure that decisions are made through the appropriate channels of the government structure.
 - act in a way that enhances public confidence in local government and
 - identify and resolve situations which might involve a conflict of interest or a potential misuse of position and authority
 - act with integrity and impartiality and be able to bear the closest scrutiny
 - be committed to achieving transparent and accountable governance to best serve its constituents.
 - To represent the diversity of community views in a fair and equitable manner, while developing an overall strategy for the future of the municipality.
 - To demonstrate sound financial management, planning and accountability.
 - To be aware and understand statutory obligations imposed upon individual members and council as a statutory body.
- Specifically, Council Members shall refrain from behaviour that could constitute an act of disorder or misbehaviour,. They shall refrain from conduct that
 - contravenes federal or provincial statutes or legislation, the Municipal Act, Municipal by-laws, associated regulations and the Municipality's Code of Conduct
 - is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse or the adverse treatment of others
 - prejudices the provision of a service or services to the community

RELATIONSHIPS WITH OTHER COUNCILORS, STAFF AND THE GENERAL PUBLIC:

- Under the direction of the Clerk-Treasurer, municipal staff serve Council as a whole. The Clerk-Treasurer has the overall responsibility for the administration of municipal affairs in accordance with the decisions adopted by Council.
- To assist in this, the establishment of appropriate administrative policies, systems and structures, policies and internal controls will enable staff to implement Council's goals and objectives in systematic manners.
- Council Members must recognize the importance of co-operation and should strive to create an atmosphere during Council and committees that is conducive to solving the issues before Council, listening to various points of view and using respectful language and behaviour towards all in attendance.
- Council Members must make every effort to diligently participate in the activities of the agencies, boards, commissions and committees to which they are appointed in the same manner as Council activities.
- Council Members will conduct themselves with decorum at Council and other municipally related meetings, including boards, etc. of which they are members.
- Decision making authority lies with the Council as a whole and not with an individual Council Members with respect to:
 - budgets
 - policies
 - committee processes
 - direction of staff
 - commitment of resources and
 - other municipal matters
- Council Members shall be respectful of the role of staff to advise based on objectivity and without undue influence from any individual council member.
- In accordance with the Ontario Rights Code and the Occupational Health and Safety Act, all persons` must be treated with dignity and respect in an environment free of discrimination and harassment. Harassment, whether it occurs inside or outside the workplace, but is related to the activities of elected office, is considered to be inappropriate behaviour for the purposes of the Code of Conduct.

COMMUNICATION:

- Council Members must convey and conduct Council business in an open and public manner (other than those matters excluded by section 239(2) Ontario Municipal Act) so that all stakeholders may understand the process, logic and rationale which was used to reach conclusions or decisions.
- The decision making process and the conveyance of Council business must be done in a manner which is transparent, accountable and equitable and with the recognition that the public has a right to open government, to participatory decision making and to reasonable access to information on the decision making process.
- Council will periodically use formal or informal opportunities to seek public input as part of the decision making process on issues which will have broad impacts on the community.
- Council Members will accurately and adequately communicate the decisions of Council, even if they are not in agreement with a majority decision.

- Council Members will speak respectfully to each other and to staff, and of the municipality and Council decisions and will not comment on other Council Members or staff in a manner which casts aspersions on their professional or personal competence or credibility.

CONFIDENTIAL INFORMATION:

- Council Members have a duty to hold in strictest confidence all in camera matters and shall not publicly disclose the content of any confidential matter or the substance of deliberations in in-camera meetings until the information is open or released to the public as required by law, or approval by Council.
- Confidential information may include, but is not limited to:
 - personnel matters
 - labour relations
 - litigation
 - information which infringes on the rights of others (e.g. sources of complaints where the identity of the complainant is given in confidence),
 - a matter of which a council, board, committee or other body may hold a closed meeting,
 - project tendering and request for proposals
 - property acquisitions, and
 - the security of municipal property
- Council Members acknowledge that official information related to decisions and resolutions made by Council will be communicated to the community and the media by the Council as a whole or the Mayor or Head of Council or by those so designated.
- Council Members shall not access or attempt to gain access to confidential information in the possession of the municipality unless it is necessary for the performance of their duties and not prohibited by law or Council policy.
- No Council Member shall use confidential information for any personal or private gain, or for the personal or private gain of relatives or any other person or corporation.
- Municipal Information will only be released by Council Members in accordance with the Municipal Freedom of Information and Protection of Individual Privacy Act.
- The obligation to keep information confidential is a continuing obligation even after the Council Member ceases to be a member.

CONFLICT OF INTEREST:

- It is the responsibility of Council Members to ensure that they are aware and trained in the application of the Municipal Conflict of Interest Act. The onus is on the Council Member to identify a conflict of interest and take appropriate action to identify the existence of a conflict in favour of his/her public duty.
 - a conflict exists when an individual is, or could be, influenced or appear to be influenced by personal interest, financial (pecuniary) or otherwise, when carrying out their public duty. Personal interest can include direct or indirect pecuniary interest, bias, pre-judgment close mindedness or undue influence.
- When a pecuniary interest exists a Council Member must withdraw from direct involvement and refrain from any comment on the issue which might influence the decision and they are not eligible to vote on the matter.

- Council Members must vacate the Council table when the matter which they have declared a direct or indirect pecuniary interest on is debated.
- If the matter is of a confidential matter, Council Members shall retire from the meeting room
- Council Members shall not act as a agent before Council or any committee, board or commission of council.
- This section does not supersede any Provincial Act or legislation.

IMPROPER USE OF INFLUENCE:

- No Council member shall use or attempt to use their authority or influence for the purposes of intimidating, threatening, coercing, commanding or influencing any staff member, with the intent of interfering with that staff member's duties, including the duty to disclose improper activities.
- No Council Member shall use the influence of his position of office for any purpose other than for the exercise of official duties.

USE OF MUNICIPAL PROPERTY:

- Council Members will only use municipal property, equipment or services connected with the discharge of their official duties.
- When municipal property is in a Council Member's care they shall ensure that it is properly secured and protected at all times.

GIFTS:

- No Council Member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties in office.
- Exceptions to this are:
 - Food, lodging or transportation and entertainment provided by another government body.
 - Food and beverages consumed at banquets and receptions.
 - A suitable memento of a function honouring the member.
 - Gifts that generally accompany the responsibilities of office and are received as an incident of protocol or social obligation.
 - A political contribution reported otherwise by law.
 - If the value of the gift does not exceed \$100.00

DUTY TO REPORT VIOLATION:

- No one may, directly or indirectly, induce, encourage or aid a Council Member to violate any provision of this code.
- Neither the municipality or any Council Member may take or threaten to take, discharge, discipline, personal attack, harassment, intimidation, or change in job or salary against a person or their family for reporting a violation of this code.
- Where liability is denied, and the alleged misconduct is serious in nature, Council may pass a resolution, pursuant to s. 274 (1) of the Municipal Act, requesting a judicial investigation into the Council Member's conduct.

COMPLAINT PROTOCOL:

- Investigation - assessment and investigation of formal written complaints respecting alleged contraventions of the Code of Conduct
- Inquiry - determining whether a Council Member has in fact violated a protocol, bylaw or policy governing their ethical behaviour, with the final decision making authority resting with Council as to whether the recommendation(s) should be imposed and
- Annual Reporting - providing Council, through the Clerk-Treasurer, with an annual report of complaints.

FORMAL COMPLAINT PROCEDURE:

- A request for an investigation of a complaint that a Council Member has contravened the Code of Conduct shall be in writing.
- All complaints shall be signed by an identifiable individual and provide contact information.
- A complaint shall identify the alleged breach and set out reasonable and probable grounds for the allegation that the Council Member has contravened the Code of Conduct, and should include a supporting affidavit that sets out the evidence in support of the complaint.
- The request for an investigation shall be filed with the Clerk-Treasurer, who shall forward the matter to the Ombudsman.

PENALTIES:

- A reprimand and/or
- Suspension of the remuneration paid to the Council Member in respect of his or her services as a member of Council, for a period of up to 90 days.
- The Ombudsman may also recommend that Council take the following actions:
 - Removal of the Council Member as Chair of a Committee
 - Repayment or reimbursement of monies received
 - Return of property or reimbursement of its value
 - A request for an apology to Council, the complainant or both.