



ADVISORY BULLETIN

**REGARDING MEMBER CONDUCT AND STATEMENTS
CONCERNING COUNCIL DECISIONS**

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Integrity Commissioner
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THE CODE OF CONDUCT & PROCEDURAL BY-LAW

- [1] Member Conduct is governed by both the **Procedural By-law** and the **Code of Conduct** of the Town of Lakeshore (“Town”). Under Part 14 (Role of the Council) of the **Procedural By-Law**, Members shall carry out the duties of Council under the *Municipal Act, 2001* and shall also be guided by the **Code of Conduct for Members of Council** (“Code of Conduct”) in Appendix B.
- [2] Part 10 of the **Procedural By-law** (Conduct of Members – Business of Council) states that Members should act “in accordance with their Declaration of Office”. It further provides specific rules regarding speaking in the Council Chamber. Part 17 of the **Procedural By-law** (Council/Staff Relationship and Roles) sets out the general principles governing the relationship between Council Members and Town employees.
- [3] Council Members should also be mindful of the *Council – Administration Relations Policy* and the *Workplace Violence and Harassment Policy*. A violation of Town policies could be considered a violation of the **Code of Conduct** as noted below.
- [4] The **Code of Conduct** provides a general standard that adds to the compendium of provincial laws and municipal by-laws that govern Member conduct. The purpose of the **Code of Conduct** is to ensure that Council Members have a common understanding of “acceptable conduct” that will enhance public confidence in the Town’s elected representatives. Members should operate from a foundation of integrity, justice, and courtesy. (**Code of Conduct, Preamble**)

MEMBER CONDUCT

- [5] Members must serve their constituency in a diligent and conscientious manner. Members cannot use the influence of their office for any purpose outside of exercising their official duties. (**Code of Conduct, General**)

- [6] Further, Members should make every effort to participate in the activities of any agency, board, or commission to which they are appointed. However, Members should note that they are only provided with liability coverage when Council is acting as a group, not when Members are acting on their own. (**Code of Conduct, *Representing the Municipality***)
- [7] When a Member of Council sits on any agency, board, or commission, they owe a fiduciary duty to that entity, that is they must act in the best interest of the entity. When the Member sits in Council, they owe a fiduciary duty to the Town, that is the Member must act in the best interest of the Town. Not surprisingly, these fiduciary duties can, on occasion, conflict. Any Member faced with such a conflict of duties may seek advice from the Integrity Commissioner.
- [8] Members must act in an acceptable manner towards other Members of Council, towards staff, and towards the public more generally.
- [9] During Meetings of Council, committees of Council, and local boards and agencies, Members shall act with decorum by showing respect for delegations, fellow Members, and Town staff. This requires that Members show courtesy and refrain from detracting from the business of Council during any presentation by a delegation or a Staff member or when another Member has the floor. (**Code of Conduct, *Conduct at Council***)
- [10] More specifically, Members must act in accordance with their Declaration of Office. Members shall not use indecent, offensive, or insulting expressions or language, at any time, toward other Members of Council, administration, delegations or members of the public; not speak in a manner that is discriminatory in nature based upon an individual's race, ancestry, place of origin, ethnic origin, creed, gender, sexual orientation, age, colour, marital status or disability; speak only to the subject under debate; and respect the time of the other Council Members by adhering the time limits provided in the **Procedural By-law**.
- [11] Finally, Members shall not disobey the rules of the Council or a decision of the Chair/Presiding Officer of Council, on a Question of Order or upon the interpretation of the Rules of Council. (**Procedural By-law, *Part 10***).
- [12] Members should be aware that the role of Council is to develop policies of the Town, while the role of administration is executed by senior administrative staff, under the

direction of the Chief Administrative Officer, with a role to develop strategies for the implementation of the policies established by Council. (**Procedural By-law**, Part 17.4.)

- [13] Town staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective. This must be done without any undue influence from Members of Council. Members shall respect this fact and refer any issues regarding Town staff to the Chief Administrative Officer (**Code of Conduct, Influence on Staff**). In addition, Council Members should pay close attention to the *Council – Administration Relations Policy* and the *Workplace Violence and Harassment Policy*.
- [14] Any harassment of another Council Member, Town staff, or member of the public is considered misconduct. Harassment can be defined as any behaviour, towards any person, that is directed at, or is offensive to, another person on the grounds of race, ancestry, place of origin, colour, ethnicity, citizenship, creed, sex, age, disability, sexual orientation, marital status, family status, or any other ground enumerated under the *Ontario Human Rights Code*. The policy of the Town is to treat all persons fairly in the workplace and to create an environment free of discrimination and personal or sexual harassment (**Code of Conduct, Harassment**). As noted above, this is also reflected in **Part 10** of the **Procedural By-Law**, prohibiting Members from speaking in a manner that is discriminatory based upon the above enumerated grounds.

MEMBER STATEMENTS AND CONDUCT CRITICIZING COUNCIL DECISIONS

- [10] Decisions made by Council become the official policy of the Town. When Members of Council speak out or engage in conduct indicating opposition to official Town policy outside the deliberative confines of the legislative process, their comments or conduct can diminish the integrity of Council decisions and, subsequently, damage public confidence in Council itself. Any such conduct, regardless of whether it is conveyed in print, social media, through an in-person conversation, or expressed through a Member's action (e.g. signing a petition), must not contravene the **Code of Conduct**.
- [11] From time to time, however, Members of Council may encounter instances where they do not agree – or even vehemently disagree – with the outcome of a Council vote on a matter. One of the roles of Council is to ensure accountability and transparency of the operations of the municipality (**Procedural By-Law, Part 14.5**). As such, Members might feel the need, whether based upon personal conviction or as a reaction to constituents, to speak out or act regarding the outcome of a Council vote in order to register their

disagreement with the result. When doing so, Members must act within the bounds set by the **Code of Conduct** and **Procedural By-Law**.

- [12] It should be emphasized that all posts on social media accounts made by Members must be treated as if they were face-to-face discussions and, therefore, the same rules regarding the **Code of Conduct** and **Procedural By-Law** apply.
- [13] Under **Part 10.1(e)** of the **Procedural By-Law**, Members shall not criticize any decision of Council except for the purpose of introducing a motion for reconsideration, which is found in *Part 9.15* of the **Procedural By-Law**. Rather than making public statements that disparage the legitimate decisions of Council, the reconsideration process is the appropriate avenue for Members who wish to revisit a decision of Council.
- [14] Of course, Members are free to explain why they voted as they did during the Council deliberations. However, they should acknowledge the legitimacy of Council decisions that result from the deliberative and democratic process.
- [15] Council Members are expected to “encourage public respect for the Town and any of its by-laws”. (**Code of Conduct, Encouragement of Respect for the Town and Its By-Laws**) Consequently, any violation of the **Procedure By-law** (or, for that matter any By-law or Policy of the Town) could be interpreted as a violation of the **Code of Conduct** and, thereby, subject the Member to the sanctions permitted under the *Municipal Act 2001*.
- [16] Council Members are reminded that, under s. 223.4(5) of the *Municipal Act, 2001*, the Town Council, based upon the recommendation of the Integrity Commissioner, may impose a Reprimand or a Suspension of Remuneration of up to 90 days if a Report from the Integrity Commissioner finds that the Member violated the **Code of Conduct**.

FURTHER INFORMATION

This Advisory Bulletin is intended to provide general information. Members of Council who seek clarification of any part of the **Code of Conduct** should consult with the Integrity Commissioner.

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