

**THE CORPORATION OF THE VILLAGE OF POINT EDWARD**

**BY-LAW NUMBER 27 OF 2019**

**"A By-Law to Establish a Code of Conduct for  
Members of the Council and the Local Boards of  
The Corporation of the Village of Point Edward"**

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**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 of its local boards and their operations;

**AND WHEREAS** subsection 223.2(1) of the *Municipal Act 2001*, requires that a municipality a code of conduct for members of its council and of the local boards of the municipality;

**AND WHEREAS** Council of The Corporation of the Village of Point Edward deems it appropriate and expedient to establish a code of conduct for members of its Council and of its local boards;

**NOW THEREFORE BE IT RESOLVED THAT** the Council of The Village of Point Edward hereby enacts as follows:

**PART 1: APPLICATION AND PURPOSE**

- 1.1 This Code of Conduct for Members of Council and Local Boards ("Code of Conduct") applies to all Members of the Council of the Village of Point Edward, including the Mayor and, unless specifically provided, with necessary modifications, to all of the Village's committees, agencies, boards and commissions, which comprise and are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*.
- 1.2 The purpose of this Code of Conduct is to establish a general standard to ensure that all Members share a common basis for acceptable conduct, and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow their respective procedural by-law and other sources of applicable law, including but not limited to:
- (a) *Municipal Act, 2001*;
  - (b) *Municipal Conflict of Interest Act*;
  - (c) *Municipal Elections Act, 1996*;
  - (d) *Municipal Freedom of Information and Protection of Privacy Act*;
  - (e) *Human Rights Code*;
  - (f) *Occupational Health and Safety Act*;
  - (g) *Personal Health Information Protection Act, 2004*;
  - (h) *Provincial Offences Act*; and
  - (i) *Criminal Code*.

**PART 2: STATEMENT OF PRINCIPLES**

- 2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Village by its Members as duly elected or appointed public representatives to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve and be seen to serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office and act without self-interest;
- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
- Members shall be cognizant that they are at all times representatives of the Village and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Village; and
- Members shall uphold the spirit and the letter of the laws of Ontario and Canada and the laws and policies adopted by Council.

The above statements are key principles that are intended to facilitate an understanding, application and interpretation of the Code of Conduct – the principles are *not* operative provisions of the Code of Conduct and are not intended to be enforced independently as such.

### **PART 3: DEFINITIONS**

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) “CAO/Clerk” means the Chief Administrative Officer/Clerk of the Village;
- (b) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (c) “confidential information” means information or records that are in the possession, in the custody or under the control of the Village that the Village is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;
- (d) “Code of Conduct” means this code of conduct made pursuant to subsection 223.2(1) of the *Municipal Act, 2001*;
- (e) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative, including non-pecuniary interests such that it might influence his or her decision in a particular matter;
- (f) “Council” means the council for the Village and includes, as the context may require and with all necessary modifications, any of the Village’s committees, agencies, boards or commissions, which are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*;
- (g) “frivolous” means of little or no weight, worth, importance or any need of serious notice;

- (h) “local board” means any committee, agency, board or commission of the Village, which is a local board as defined in subsection 1(1) and section 223.1 of the *Municipal Act, 2001* and includes a joint board;
- (i) “Mayor” means the head of Council for the Village;
- (j) “meeting” means a regular, special or other meeting of Council or a committee of Council where:
  - (i) a quorum of Members is present, and
  - (ii) Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of Council;
- (k) “Member” means a Member of the Council for the Village or a member of a local board, including a member of a joint board if appointed by the Council;
- (l) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (m) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (n) “Procedural By-law” means the Village of Point Edward’s Procedural By-Law, being By-Law No. 33 of 2014 or the procedural by-law of the local board;
- (o) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (p) “staff” means all employees, officers, directors, managers, supervisors and all non-union and union staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents and consultants acting in furtherance of the Village’s business and interest;
- (q) “vexatious” means troublesome or annoying in the case of being instituted without sufficient grounds and serving only to cause irritation and aggravation to the person being complained of; and
- (r) “Village” means The Corporation of the Village of Point Edward and includes, as the context may require and with all necessary modifications, any of the Village’s local boards.

**PART 4: GENERAL OBLIGATIONS**

4.1 In all respects, a Member shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Village’s Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) seek to serve their constituents in a conscientious and diligent manner;
- (e) respect the individual rights, values, beliefs and personality traits of any other person, recognizing that all persons are entitled to be treated equally with dignity and respect for their personal status regarding gender, sexual orientation, race, creed, religion, ability and spirituality;

- (f) refrain from making statements known to be false or with the intent to mislead Council or the public;
- (g) recognize that they are representatives of the Village and that they owe a duty of loyalty to the residents of the Village at all times;
- (h) accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings;
- (i) in communications with the media, shall not indicate, implicitly or explicitly, that they speak on behalf of Council, unless they have been authorized to do so by Council; and
- (i) refrain from making disparaging comments or unfounded accusations about the motives of another Member, a member of the public or staff.

#### **PART 5: THE ROLE OF STAFF**

- 5.1 Council as a whole approves the budget, policies and governance of the Village through its by-laws and resolutions. An individual Member does not direct nor oversee the functions of the staff of the Village.
- 5.2 The Village's staff serve Council and work for the Village as a body corporate under the direction of the CAO/Clerk. Inquiries of staff from Members should be directed to the CAO/Clerk or to the appropriate senior staff as directed by the CAO/Clerk.
- 5.3 A Member shall comply with the Village's Council and Staff Relationship Policy.
- 5.4 A Member shall not publicly criticize staff. If a Member has any issue with respect to any staff member, such issue shall be referred to the CAO/Clerk who will direct the matter to the particular staff member's appropriate superior.
- 5.5 A Member shall respect the role of staff in the administration of the business and governmental affairs of the Village, and acknowledge and appreciate that staff:
  - (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that a Member must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
  - (b) work within the administration of justice and that a Member must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, a Member shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and
  - (c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, a Member must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

#### **PART 6: MUNICIPAL PROPERTY**

- 6.1 Council is the custodian of the assets of the Village. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.
- 6.2 By virtue of their office or appointment, a Member must not use or permit the use of the Village's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Village. No Member shall seek financial gain for themselves, family or friends from the use or sale of the Village's intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Village.

## **PART 7: GIFTS AND BENEFITS**

- 7.1 Any gift to a Member risks the appearance of improper influence. Gifts may improperly induce influence or create an incentive for a Member to make decisions on the basis of relationships rather than in the best interests of the Village. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality or any form of personal benefit connected directly or indirectly with the performance of his or her duties except as provided in Section 7.2. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.
- 7.2 For greater clarity, despite Section 7.1, a Member is entitled to accept any compensation, remuneration or benefits authorized by law but shall not accept any gift or benefit other than in the following circumstances:
- (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
  - (b) a political contribution otherwise reported by law, in the case of a Member running for office;
  - (c) services provided without compensation by persons volunteering their time for a charitable or non-profit event;
  - (d) nominal tokens, mementos or souvenirs received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;
  - (e) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity as a representative of the Village;
  - (f) entrance fees or food and beverages consumed at banquets, receptions or similar events, if:
    - (i) attendance serves a legitimate municipal business purpose related to the normal business of the Village,
    - (ii) the person extending the invitation or a representative of the organization is in attendance, and
    - (iii) the value is reasonable and the invitations are infrequent;
  - (g) gifts not having a value greater than \$300;
  - (h) benefits received as a door prize, raffle or similar draw at an event, conference or seminar attended by the Member; and
  - (i) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.
- 7.3 A Member who has received and accepted a gift or benefit pursuant to Section 7.29(a), (f), (g), (h) and (i) shall file a disclosure of the gift or benefit indicating the person, body or entity from which it was received together with the estimated value of the gift or benefit in accordance with the Disclosure Statement set out in Appendix "A". The Disclosure Statement shall be provided to the CAO/Clerk on an annual basis commencing on March 31 of every year and shall be a matter of public record.
- 7.4 A Member shall not seek or obtain by reason of his or her office any personal privilege or advantage with respect to municipal services not otherwise available

to the general public and not connected directly or indirectly to the performance of the Member's duties.

## **PART 8: CONFIDENTIAL INFORMATION**

- 8.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the Village that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council. Examples of types of information that a Member must keep confidential, unless expressly authorized by Council or as required by law, include, but are not limited to:
- (a) matters related to ongoing litigation or negotiation, or that is the subject of solicitor-client privilege;
  - (b) information provided in confidence, for example, the identity of a complainant where a complaint is made in confidence;
  - (c) price schedules in contract tender or Request for Proposal submissions if so specified;
  - (d) personnel matters about an identifiable individual;
  - (e) "personal information" as defined in the *Municipal Freedom of Information and Protection of Privacy Act*; and
  - (f) any census or assessment data that is deemed confidential.
- 8.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting. A Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. All confidential documents received at a closed meeting are to be turned into the CAO/Clerk at the end of the closed meeting. A Member shall 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 as required by law.
- 8.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Village that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Village and must follow the same processes as any private citizen to obtain such information.
- 8.4 A Member shall not misuse confidential information in any way or manner such that it may cause detriment to the Village, Council or any other person, or for financial or other gain for themselves or others.
- 8.5 A Member shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, Village policies, procedures and rules, ethical standards and, where appropriate, professional standards.
- 8.6 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.

## **PART 9: DISCRIMINATION AND HARASSMENT**

- 9.1 A Member shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.
- 9.2 A Member shall not use indecent, abusive or insulting words, phrases or expressions toward any member of the public, another Member or staff. A

Member shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, sexual orientation, marital status, family status, disability, age or record of offences for which a pardon has not been granted.

9.3 A Member shall comply with the Village's workplace harassment and violence policy.

**PART 10: IMPROPER USE OF INFLUENCE**

10.1 A Member shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.

10.2 A Member shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

**PART 11: CONFLICTS OF INTEREST**

11.1 A Member shall seek to avoid conflicts of interest, both pecuniary and non-pecuniary. A Member shall comply with the requirements of the *Municipal Conflict of Interest Act* with respect to obligations relating to pecuniary interests. A Member shall take proactive steps to mitigate any non-pecuniary conflicts of interest in order to maintain public confidence in the Village and its elected officials.

11.2 Members are encouraged to seek guidance from the Integrity Commissioner when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary.

**PART 12: COUNCIL POLICIES AND PROCEDURES**

12.1 A Member shall observe and adhere to the policies, procedures and rules established from time to time by Council.

**PART 13: ELECTION ACTIVITY**

13.1 A Member is required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any of the Village's policies pertaining to elections. The use of the Village's resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

**PART 14: RESPECT FOR THE CODE OF CONDUCT**

14.1 A Member shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Village. A Member shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. A Member shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.

14.2 A Member shall cooperate with requests for information during any investigations or inquiries under the Code of Conduct. A Member shall not destroy or damage documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been filed under the Code of Conduct or any process for complaints adopted by the Village.

APPENDIX "A"

DISCLOSURE STATEMENT FOR GIFTS OR BENEFITS

Member's Name: \_\_\_\_\_

Gift Received or Nature of Benefit: \_\_\_\_\_

\_\_\_\_\_

Received From: \_\_\_\_\_

Date of Receipt: \_\_\_\_\_ Value or Estimate of Gift: \_\_\_\_\_

Please describe the circumstances under which the Gift or Benefit was received:

\_\_\_\_\_

\_\_\_\_\_

Please describe your intentions with respect to the Gift or Benefit:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Do you anticipate transferring the Gift or Benefit described above to the Village or the local board?

Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_  
Member's Signature

\_\_\_\_\_  
Date



**PART 15: PENALTIES FOR NON-COMPLIANCE WITH THE CODE OF CONDUCT**

15.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, the Integrity Commissioner may impose the following penalties on the Member:

- (a) a reprimand; or
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to ninety (90) days.

**PART 16: REMEDIAL OR CORRECTIVE MEASURES OR ACTIONS**

16.1 Where the Integrity Commissioner has reported to Council that a Member is in violation of the Code of Conduct, the Integrity Commissioner may also recommend to Council and/or require that the Member:

- (a) provide a written or verbal apology;
- (b) return property or make reimbursement of its value or of money spent;
- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council; and
- (e) comply with any other remedial or corrective action or measure deemed appropriate by the Integrity Commissioner.

**PART 17: LEGAL FEES**

17.1 A Member is responsible for his or her own legal costs if he or she retains a lawyer or paralegal to provide counsel, advice or representation on any matter related to the Code of Conduct, including, but not limited to, an investigation and the imposition of penalties or remedial or corrective measures or actions by the Integrity Commissioner.

**PART 18: COMPLAINT PROTOCOL**

18.1 The Complaint Protocol – Code of Conduct is Appendix “B” to the Code of Conduct.

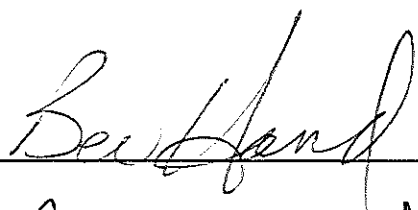
**PART 19: SHORT TITLE**

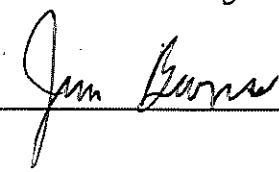
18.1 This By-Law shall be known as the "Code of Conduct".

**PART 20: GENERAL PROVISIONS**

20.1 This By-Law comes into force on the day it is passed. All previous By-Laws inconsistent with this By-Law are hereby repealed.

**THIS BY-LAW** read a FIRST, SECOND, and THIRD TIME and FINALLY PASSED this 28th day of May, 2019.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
CAO/Clerk