

THE CORPORATION OF THE UNITED COUNTIES

OF STORMONT, DUNDAS AND GLENGARRY

BY-LAW NO. 5151

A BY-LAW to adopt revised Policy No. 3-04, a Code of Conduct for Members of Council.

WHEREAS Section 5(3) of the *Municipal Act, 2001, S. O. 2001*, Chapter 25, as amended, provides that the powers of the Corporation of the United Counties of Stormont, Dundas and Glengarry, shall be exercised by by-law.

AND WHEREAS the United Counties of Stormont, Dundas and Glengarry wishes to adopt a revised Code of Conduct for Members of Council.

NOW THEREFORE THE COUNCIL OF THE UNITED COUNTIES OF STORMONT, DUNDAS AND GLENGARRY ENACTS AS FOLLOWS;

1. That Council hereby adopts revised Policy No. 3-04, a Code of Conduct for Members of Council, attached hereto as Schedule "A" to this by-law.
2. That this By-law is effective upon the final passing thereof.

READ and passed in Open Council, signed and sealed this 22nd day of May, 2018.



WARDEN



CLERK

POLICY MANUAL	Policy 3-04
United Counties of Stormont, Dundas and Glengarry	Effective Date: June 1, 2018 Amended: May 1, 2017
Subject: Code of Conduct for Members of Council	Department: Council

PURPOSE

The Code of Conduct sets a minimum standard for the behaviour of Council members in carrying out their functions. It has been developed to assist Council to:

1. Understand the standards of conduct that are expected of them and the law that applies in relation to these standards;
2. Fulfill their duty to act honestly and exercise reasonable care and diligence;
3. Act in a way that enhances public confidence in local government; and
4. Identify and resolve situations which might involve a conflict of interest or a potential misuse of position and authority.

LEGISLATED RESPONSIBILITIES

1. Role of Council

Pursuant to the *Municipal Act, 2001*, it is the role of Council:

- i) to represent the public and to consider the well-being and interests of the municipality;
- ii) to develop and evaluate the policies and programs of the municipality;
- iii) to determine which services the municipality provides;
- iv) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
- v) to ensure the accountability and transparency of the operations of the municipality;
- vi) to maintain the financial integrity of the municipality; and,
- vii) to carry out the duties of Council under this or any other Act.

2. Role of the Head of Council

Pursuant to the *Municipal Act, 2001*, it is the role of the Head of Council:

- i) to act as Chief Executive Officer of the municipality;
- ii) to preside over Council meetings so that its business can be carried out efficiently and effectively;
- iii) to provide leadership to the Council;
- iv) to provide information and recommendations to Council with

- respect to the role of Council;
- v) to represent the municipality at official functions; and,
- vi) to carry out the duties of the Head of Council under this or any other Act.

3. Role of Officers & Employees

Pursuant to the *Municipal Act, 2001*, it is the role of Officers and employees of the municipality to:

- i) implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions;
- ii) undertake research and provide advice to Council on the policies and programs of the municipality; and,
- iii) carry out other duties required under this or any Act and other duties as assigned by the municipality.

STANDARDS OF CONDUCT

1. Members of Council shall at all times seek to advance the common good of the community which they serve.
2. Members of Council shall truly, faithfully and impartially exercise the office to the best of their knowledge and ability.
3. Members of Council shall, at all times in the exercise of their duties, act impartially and avoid conflicts of interest as defined in this Code.
4. Members of Council shall refrain from behaviour that:
 - i) contravenes Federal or Provincial law, Municipal by-laws, or the Municipality's Code of Conduct;
 - ii) is an abuse of power;
 - iii) discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others; or
 - iv) prejudices the provision of a service or services to the community.

CONDUCT TO BE OBSERVED

1. **Release of Confidential Information**

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with at closed meetings, information that is marked as "confidential", information obtained by the Member by virtue of their position as Councillor that is not in the public domain, or information that is otherwise determined to be confidential by the CAO, Clerk or as specifically declared by Council.

- i) Members of Council shall not release information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, 1990*, as amended.
- ii) Members of Council shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so.

- iii) Members of Council shall not misuse confidential information. Misuse includes but is not limited to disclosure to third parties, whether or not such disclosure causes detriment to the Corporation, Council or others, or benefits themselves or others.
- iv) The obligation to keep information confidential applies even if the Member ceases to be a Member of Council for any reason.
- v) All closed meeting materials shall be signed and dated by members of Council and collected at the end of each in camera session by the Clerk or CAO.
- vi) All members of Council enjoy the same access rights to municipal information as any other member of the community, unless it is specifically relevant to a matter before Council.

2. **Foster Respect for Decision-making Process**

All Members of Council shall accurately and adequately communicate the attitudes and decisions of the Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered. If Council has taken a position in a Local Planning Appeals Tribunal, or other tribunal or court, and instructed the Municipal Solicitor to appear at a hearing in support of such position, no member of Council who disagrees with such position shall give evidence at such hearing or otherwise work against the will of Council expressed in its direction to the Municipal Solicitor in such matter.

3. **Litigation or Possible Litigation Matters**

No member of Council shall communicate in any way with any party who has initiated or suggested that legal action may be initiated against the municipality. All inquiries are to be referred to the CAO or the solicitor who representing the County on the particular matter.

4. **Release of Information to Public and Media, including Social Media**

Members of Council acknowledge that official information related to decisions and resolutions made by Council will normally be communicated to the community and the media by the Council as a whole or the Warden as Head of Council or by those so designated.

5. **Reputation Management**

A member of Council shall not initiate or participate in any action of falsehood, slander or defamation of character nor the spreading of any rumour about an elected official, an appointed official and any member of staff of the County.

6. **Impairment**

No member of Council shall be impaired while performing any duty or carrying out any responsibilities for the County.

7. **Gifts & Benefits**

The objective of these policies is to ensure that Councillors make Council decisions based on impartial and objective assessments of each situation, free from influence of gifts, favours, hospitality or entertainment, or the promise of such advantages.

- i) Members of Council are prohibited from soliciting, accepting, offering or agreeing to accept any gifts, commission, hospitality, reward, advantage or benefit of any kind (hereinafter defined as a "Benefit"), personally or through a family member or business connection, that is connected directly or indirectly with the performance of duties of office or could reasonably be construed as being given in anticipation of future, or recognition of past, special consideration associated with the duties of a Councillor.
- ii) Members of Council are prohibited from accepting, directly or indirectly, any Benefits that are offered by persons, groups or organizations having dealings with the municipality.
- iii) This policy does not preclude Members of Council from accepting:
 - a. Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee, for speaking at an event or for representing the Corporation at an event, provided the Benefit is of minimal cash value;
 - b. Political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
 - c. Food and beverages at meetings, banquets, receptions, ceremonies or similar events;
 - d. Food, lodging, transportation or entertainment provided by other levels of government, by other local governments or by local government boards or commissions;
 - e. A stipend from a board or commission that the Member serves on as a result of an appointment by Council;
 - f. Reimbursement of reasonable expenses incurred in the performance of office;
 - g. Reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
 - h. Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office; and

- i. Services provided without compensation by persons volunteering their time for an election campaign in accordance with applicable law.
- iv) Where it is not possible to decline unauthorized Benefits, Councillors shall report the matter to the Clerk. Council may require that the gift be retained by the Corporation or be disposed of for charitable purposes.
- v) Members of Council shall not place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or which may seek preferential treatment.

8. Procurement of Goods & Services

No member of Council shall make personal purchases through the municipality and all purchases made by the Corporation to assist the members of Council in the fulfillment of their duties (business cards, etc.) shall be in accordance with the municipality's procurement by-law. Members of Council shall declare any conflict of interest with respect to the procurement of goods and services and shall refrain from the procurement process to which the conflict of interest relates.

9. Engaging in Incompatible Activity

Members of Council shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of official duties in the public interest. Without limiting the generality of the foregoing, unless such preferential treatment is conferred by resolution or by-law of Council, members of Council shall not:

- i) use any influence of office for any purpose other than official duties;
- ii) act as an agent before Council or any committee, board or commission of Council;
- iii) solicit, demand or accept the services of any corporation, employee, or individual providing services to the County at a time in which said person or corporation is being paid by the municipality;
- iv) use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;
- v) place themselves in a position of obligation to any person or organization which might benefit from special consideration or may seek preferential treatment;
- vi) give preferential treatment to any person or organization in

- vii) which a member or members of Council have a financial interest; influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which a member or members of Council have a financial interest; and
- viii) use Corporate materials, equipment, facilities or employees for personal gain or for any private purpose.

10. **Conflict of Interest**

Conflicts of interest may arise in the course of a Member of Council's duties related to direct or indirect financial interests or other non-financial interests. This Code distinguishes between financial interests as defined in the *Municipal Conflict of Interest Act* and conflicts of interests under this Code, which may include financial interests or other non-financial interests.

Municipal Conflict of Interest Act

Members of Council are responsible to ensure that they are familiar with and comply with the *Municipal Conflict of Interest Act, 1990*, as amended. It is the responsibility of each Member of Council, not staff, to determine whether they have a direct or indirect pecuniary interest with respect to matters arising before Council. Each Member of Council shall determine whether he or she has a direct or indirect pecuniary interest and shall at all times comply with the Act.

The prescribed form shall be completed by the Member of Council and filed with the Clerk.

Conflicts of Interest

A conflict of interest occurs when a situation arises in the course of a Member of Council's duties where the Member is called upon to deal with a matter in which the Member has a direct or indirect personal interest. In the context of this policy, it is possible that a financial interest may create a conflict of interest notwithstanding that the financial interests might not otherwise contravene the *Municipal Conflict of Interest Act*.

For purposes of this Code, a pecuniary interest, direct or indirect, of a family member of the Member shall, if known to the Member, be deemed to be also the pecuniary interest of the Member. All Members of Council shall declare a conflict of interest where his or her family member has a pecuniary interest in the matter before Council and shall take all of the actions prescribed in the *Municipal Conflict of Interest Act* as if the Act applied to conflicts concerning family members.

For purposes of this Code, "Family Members" shall include:

- i) a child of the Member, as defined in the *Municipal Conflict of Interest Act*;
- ii) a parent of the Member, as defined in the *Municipal Conflict of Interest Act*;
- iii) a spouse of the Member, as defined in the *Municipal Conflict of Interest Act*;
- iv) a sibling, including adopted siblings, of the Member;
- v) a grandparent of the Member, whether through birth or marriage;
- vi) a first cousin of the Member, whether through birth or marriage;
- vii) an aunt or uncle, whether through birth or marriage; and
- viii) a niece or nephew, whether through birth or marriage.

A direct personal interest may occur when a Member may derive some financial or personal benefit or avoid a financial or personal loss as a result of a matter that is before Council. An indirect personal interest may occur when the potential benefit or loss would be experienced by another person or corporation having a relationship with the Member of Council. The conflict of interest arises when the Member participates in activities that could advance a personal interest, direct or indirect, where that benefit or loss is not necessarily in the best interests of the County.

Members of Council must perform their duties impartially and without undue influence, such that an objective, reasonable observer would conclude that the Member is exercising their duties objectively and without undue influence. Each Member of Council should govern their actions using the following as a guide:

- i) in making decisions, always place the interests of the taxpayers and the County first and, in particular, place those interests before your personal interests and the interests of colleagues on Council, staff, friends, business colleagues or family;
- ii) consider the phrase "conflict of interest" to be broad and interpret the phrase with the objective of achieving the goal of making decisions impartially and objectively;
- iii) if there is doubt about whether or not a conflict exists, seek the advice of the Integrity Commissioner or legal counsel;
- iv) do not make decisions that create an obligation to any other person who will benefit from the decision;

- v) do not put yourself in the position where a decision would give preferential treatment to colleagues on Council, staff, friends, business colleagues or family, or any organization that might indirectly benefit such individuals;
- vi) do not promise or hold out the prospect of future advantage through your influence within Council in return for a direct or indirect personal interest;

Direct or indirect personal interests do not include:

- i) a benefit that is of general application across the municipality;
- ii) a benefit that affects a Member of Council or his or her family, friends or business colleagues of other Members of Council as one of a broad class of persons; or
- iii) the remuneration of Council or benefits available to Council.

Where a Member of Council has a personal conflict of interest as defined in this Code, that member shall declare the interest and shall not thereafter participate in the discussion of Council, vote on the matter or seek to influence the vote of any other Member of Council. If the matter is discussed in closed session, the Member of Council shall not attend that portion of the closed session where that matter is discussed.

AVOIDANCE OF WASTE

Members of Council shall avoid waste, abuse and extravagance in the provision or use of public resources, and shall make all reasonable efforts to expose fraud and corruption of which the member of Council is aware.

PROFESSIONAL DEVELOPMENT

Members of Council shall promote and participate in opportunities for professional development. Council Members should make efforts to stay updated on issues and trends so that they can be as efficient and effective as possible in the carrying out of their duties and responsibilities.

INTERPERSONAL BEHAVIOUR

1. Ontario Human Rights Code

Members of Council shall abide by the provisions of the Human Rights Code and, in doing so, shall treat every person, including other members of Council, corporate employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect for the right to equality and the right to an environment that is safe and free from harassment and discrimination.

2. **Discrimination**

Members of Council shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, religious affiliation or faith, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability. The terms "age", "disability", "family status", "record of offences", "same sex partnership status" shall be as defined in the Human Rights Code.

3. **Harassment**

No member of Council shall harass another member of Council, staff or an appointed committee member because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or disability.

No member of Council shall sexually harass, sexually solicit or threaten reprisal for the rejection of a sexual solicitation of another member of Council, staff or an appointed person.

4. **Relationship with Staff**

Members of Council shall be respectful of the fact that staff work for the County and make recommendations based on their professional and technical expertise as well as from a corporate perspective. Staff serve Council as a whole and no Member of Council may direct staff absent of a resolution of Council. Council approves policy and the Chief Administrative Officer directs staff to ensure the direction of Council is achieved.

Members of Council shall respect the role of staff to provide advice based on political neutrality and objectivity and shall not impose any undue influence on staff.

Many staff members are bound through professional associations to a code of ethics in the delivery of their services, and Council Members shall respect that staff provide their reports, observations and recommendations objectively and in the best interests of the County.

Members of Council shall not:

- i) maliciously or falsely injure the professional or ethical reputation of staff;
- ii) compel staff to engage in partisan political activities or be subjected to threats of discrimination for refusing to engage in such activities;
- iii) use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff

member with the intent of interfering with staff duties; and,

Operational inquiries and complaints received from the public will be addressed by members of Council as follows:

- i) Members of Council who are approached by the public with inquiries/complaints regarding operational matters should encourage the party to contact the appropriate department for review/resolution.
- ii) where the member of the public is reluctant to contact the department directly, the member of Council should take the person's name, phone number and details of the inquiry/complaint and advise them that the matter will be referred to the CAO for review/resolution.
- iii) members of the public are encouraged to provide their issue/matters of concern in writing to the appropriate department.
- iv) where the inquiry/complaint is not resolved to the satisfaction of the member of the public then the issue may be brought forward to the Warden and then Council for resolution.

5. **Protection of Privacy**

Councillors shall comply with the Municipal Freedom of Information and Protection of Privacy Act at all times. Public comments, discussions and disclosures to the media regarding employees or individuals that breach a person's privacy shall be deemed to be a contravention of this Code of Conduct.

USE OF MUNICIPAL PROPERTY

Members of Council shall not make unauthorized use of any County property for personal reasons or for any direct or indirect personal benefit or advantage. Any County property in the possession of any Member of Council (as authorized) shall be properly secured and protected at all times. This includes the use of corporate credit cards, access cards, intellectual property and computer access.

Members of Council shall only use County property for activities associated with the discharge of County business and council duties, and only with prior authorization. Facilities such as internet access, internal mail and bulletin boards are provided for County business and sponsored activities and must be restricted accordingly, unless another use is approved by Council. No unacceptable or unlawful activity shall be conducted on the County's electronic network, including without limitation, accessing pornographic or hate propaganda online.

The County's electronic networks are corporate assets. Members of Council should be aware that communications over County networks are not considered private communication and may be subject to public scrutiny.

COMPLAINT PROCESS – EFFECTIVE January 1st, 2019

1. Members of Council, employees, or members of the public who have reasonable grounds to believe that a Member of Council may have contravened this Code may submit a complaint to the Integrity Commissioner by filing with the Clerk a completed and signed complaint form and paying the prescribed fee. Where the complaint is determined by the Integrity Commissioner to be without merit or frivolous or vexatious the prescribed fee shall not be refunded to the Complainant. In all other circumstances, the Complainant shall be entitled to a refund of the prescribed fee upon the conclusion of the process.
2. Upon receipt of a complete complaint form, the Integrity Commissioner shall undertake an investigation. The Integrity Commissioner shall have all of the powers and authority conferred by the *Municipal Act* in undertaking his or her duties under this Code. The investigation may be completed in the discretion of the Integrity Commissioner as follows:
 - i) With the consent of the complainant and Member of Council, the Integrity Commissioner may conduct mediation or facilitate dispute resolution at the outset or at any point in the process;
 - ii) The Integrity Commissioner may conduct a review of the written complaint and any relevant written information or materials in the possession of the municipality and determine that the complaint is without merit or is frivolous or vexatious;
 - iii) The Integrity Commissioner may refer any complaint to another entity where the complaint alleges a breach of other legislation and it is more appropriate for another entity to undertake the investigation; or
 - iv) The Integrity Commissioner may undertake an investigation of the complaint, or any aspect of the complaint, in his or her sole discretion.
3. The parties to the complaint are encouraged to attempt to resolve the complaint through informal means in advance of submitting a written

complaint. Informal dispute resolution is not however a precondition for submitting a written complaint.

4. Complaints must be investigated and a report submitted to Council on or before Nomination Day in the year of a municipal election.
5. Complaints that are not completed as of Nomination day in an election year shall be terminated on Nomination Day.
6. The complainant may re-commence the complaint within 6 weeks of Voting Day by submitting a written request to the Integrity Commissioner, who shall, provided the request is received on or before 6 weeks from Voting Day, recommence the investigation.
7. In addition, on or after Nomination Day in the year of a municipal election: no complaint shall be filed; the integrity Commissioner shall not report to the County about an ongoing investigation; and the County shall not consider whether to impose any penalty on a Member of Council subsequent to an investigation.
8. The decision of the Integrity Commissioner shall be presented to Council with any recommendations. The Integrity Commissioner and all persons involved in the investigation shall treat all matters discussed as confidential and only the Integrity Commissioner shall determine what information shall be disclosed in a public report.

DUTIES OF THE INTEGRITY COMMISSIONER

Municipal Conflict of Interest investigations under Section 5, 5.1

1. After March 1, 2019, an elector as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest, may submit a request to the Integrity Commissioner to conduct an investigation concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by filing with the Clerk a completed and signed complaint form and paying the prescribed fee.
2. No application may be submitted more than six weeks after the applicant became aware of the alleged contravention.
3. An application for an investigation in an election year may only be submitted prior to Nomination Day or after Voting Day.
4. In the event that an applicant becomes aware of the alleged

contravention within the period of time starting six weeks before nomination day in an election year, the applicant may apply to the Integrity Commissioner within six weeks after the day after Voting Day, provided that the applicant includes in their written request for an investigation a statutory declaration attesting to the fact that the applicant became aware of the contravention not more than six weeks before the date of the application, or in the case where an applicant became aware of the alleged contravention prior to Nomination day, a declaration that the facts were not known to the applicant more than six weeks prior to Nomination Day.

5. The Integrity Commissioner has all the powers set out in the *Municipal Act* when undertaking an investigation under this section.
6. Where a request for an investigation is received, the Integrity Commissioner may:
 - i) With the consent of the complainant and Member of Council, conduct mediation or facilitate dispute resolution at the outset or at any point in the process;
 - ii) Conduct a review of the written complaint and any relevant written information or materials in the possession of the County and determine that the complaint is without merit or is frivolous or vexatious; or
 - iii) Undertake an investigation of the complaint, or any aspect of the complaint, in his or her sole discretion.
7. Where an investigation has not been completed before Nomination Day in an election year, the Integrity Commissioner shall terminate the investigation on that day.
8. An investigation terminated pursuant to paragraph 7 above shall not be recommenced unless, the person who made the request, or the Member of Council whose conduct is at issue, applies in writing to the Integrity Commissioner to re-commence the investigation.
9. The Integrity Commissioner shall complete the investigation within 180 days of receipt of the complaint, unless the investigation is terminated in accordance with paragraph 7 above.
10. The Integrity Commissioner may, after completing an investigation, Apply to a judge in accordance with the *Municipal Conflict of Interest Act* for a determination under the Act. Prior to making an application to court, the Integrity Commissioner shall present to Council a request to make the application and allow Council to provide recommendations

to the Integrity Commissioner as to whether such an application should be made. The Integrity Commissioner is not bound by the advice or recommendation of Council and shall refer the matter to a judge in his or her sole discretion.

11. After completing the investigation, the Integrity Commissioner shall prepare a report which shall make findings of fact and conclusions as to whether a breach of the Act occurred, make recommendations to Council, make a determination as to whether or not the matter will be referred to the court and include written reasons for the decision.
12. The report of the integrity Commissioner shall be published by posting the report on the County website and making a copy available to all Members of Council.

Advice to Members of Council

1. The Integrity Commissioner may provide advice to any Member of Council respecting:
 - i) the Member's obligations under this Code;
 - ii) the Member's obligations under any other policy dealing with ethical behaviour; or
 - iii) the Member's obligations under section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.
2. Any request for advice must be made in writing and any advice provided to the Member must be in writing.
3. Advice provided to any Member may only be released with the member's consent, unless the Member releases a portion of the advice, in which case the integrity Commissioner may release the balance of the advice without the Member's consent.
4. Where advice is received by a Member of Council, the Integrity Commissioner is bound by the advice given in any subsequent investigation, provided that the facts upon which the advice was based remain unchanged.

IMPLEMENTATION

1. A Code of Conduct component will be included as part of the orientation workshop for each new Council term.
2. Council members are expected to formally and informally review their adherence to the provisions of the Code on a regular basis.

3. Members of Council will be expected to sign a Confirmation of Understanding of the Code of Conduct to convey to each other, members of the public and staff that they have read, understand and accept it.

For further information, contact:

United Counties of Stormont, Dundas and Glengarry
Corporate Services
26 Pitt Street
Cornwall, ON K6J 3P2
(613) 932-1515 ext. 203
(800) 267-7178

**Confirmation of Understanding
of
United Counties of Stormont, Dundas & Glengarry
Code of Conduct for Members of Council**

I have received a copy of the United Counties of Stormont, Dundas and Glengarry Code of Conduct for Members of Council and have read the document carefully.

I understand all of the policies and terms and agree to abide by them.

I understand that if I violate these policies, I may be subject to corrective or disciplinary action.

Council Member Signature

Date

Council Member Name (please print)

Witness