

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO. 2016-07

A BY-LAW TO ADOPT A CODE OF CONDUCT FOR THE COUNCIL OF THE TOWN OF WASAGA BEACH AND TO REPEAL BY-LAW 2015-47

WHEREAS pursuant to section 9 of the *Municipal Act*, 2001 S.O. 2001, chapter 25 a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to section 8. (1) of the *Municipal Act*, 2001 S.O. 2001, chapter 25 the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 11 of the 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 WHEREAS Part V.1., Accountability and Transparency, Section 223.2(1) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended authorizes a municipality to establish codes of conduct for Members of Council of the municipality and of local boards of the municipality;

AND WHEREAS the Council of the Corporation of the Town of Wasaga Beach deems it expedient to amend its existing Code of Conduct for Council that was passed under By-law 2015-47;

NOW THEREFORE, the Council of the Corporation of the Town of Wasaga Beach HEREBY ENACTS as follows:

1. THAT the Code of Conduct for Council, Schedule "A", attached hereto and forming part of this By-law be adopted.
2. THAT amendments or additions to the Code of Conduct may be made by resolution of Council without an amendment to this By-Law.
3. In the event that section or sections of this by-law thereof are found by a Court of competent jurisdiction to be invalid or ultra vires, such section, sections or parts thereof shall be deemed to be severable, with all other sections or parts of this by-law remaining in the full force and effect.
4. THAT By-Law No. 2015-47, as amended is hereby repealed, and where the provisions of any other by-law, resolution or action of Council area inconsistent with the provisions of this by-law, the provision of this by-law shall prevail.

5. THAT this By-Law shall come into force and take effect on the date of its final passing.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 26th DAY OF JANUARY, 2016.

Brian Smith, Mayor

Holly Bryce, Town Clerk



THE CORPORATION OF THE TOWN OF WASAGA BEACH

SCHEDULE "A"

TO

BY-LAW NO. 2016-07

COUNCIL CODE OF CONDUCT

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1.0 PURPOSE

The purpose and intent of the Council Code of Conduct is to establish standards of conduct for Members of Council, Local Boards and Committee Members in the individual conduct of their official duties.

The Code represents general standards. The Code does not replace Council Member's roles, responsibilities, actions and behaviors required by various statutes, by-laws and policies.

2.0 STATEMENT OF PRINCIPLE

A written Code of Conduct helps to ensure that the members of Council share a common basis of acceptable conduct. These standards are designed to supplement the legislative parameters within which the members must operate. These standards are intended to enhance public confidence that the Town of Wasaga Beach elected and appointed officials operate from a basis of integrity, justice and courtesy.

3.0 OVERVIEW

The Town of Wasaga Beach's Code of Conduct is a general standard that augments the provincial laws and municipal policies and by-laws that govern the members' conduct.

Attaining an elected position within one's community is a privilege which carries significant responsibilities and obligations. Members of Council are held to a high standard as leaders of the community and they are expected to become well informed on all aspects of municipal governance, administration, planning and operations. They are also expected to carry out their duties in a fair, impartial, transparent and professional manner.

4.0 STATUTORY PROVISIONS REGULATING CONDUCT

- 4.1 This Code of Conduct operates along with and as a supplemental to the existing statutes governing the conduct of members. Six pieces of provincial legislation govern the conduct of Members of Council:
 - a. Municipal Act, 2001, S.O. 2001, c.25;
 - b. Municipal Conflict of Interest Act, R.S.O. 2990, c.M. 50;
 - c. Municipal Elections Act, 1996, S.O. 1996;
 - d. Municipal Freedom of Information and Protection of Privacy Act; R.S.O. 1990, c.M. 56;
 - e. The Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2009; and
 - f. Human Rights Code.
- 4.2 The Town of Wasaga Beach Procedural By-law addresses the conduct of Council during a Town Council meeting.
- 4.3 The Town's Corporate Policies and Procedures, including Human Resource Policies, also govern the conduct of Council.
- 4.4 The Criminal Code of Canada also governs the conduct of members.

5.0 APPLICATION

This Code of Conduct and the references within it, shall apply to all members of Wasaga Beach Town Council and members of Local Boards and Council Committees including those citizens and/or staff appointed by Town Council.

6.0 DEFINITIONS

For the purpose of this Code of Conduct:

- a) In this Code of Conduct, the terms “**child**”, “**parent**” and “**spouse**” have the same meanings as in the *Municipal Conflict of Interest Act*.
- b) **Chief Administrative Officer (CAO)** – means the Chief Administrative Officer for the Town of Wasaga Beach.
- c) **Clerk** means the Town Clerk of the Town of Wasaga Beach.
- d) **Code** means this Code of Conduct as it applies to members of Council.
- e) **Complaint** means an alleged contravention of this Code.
- f) **Confidential Information** includes information in the possession of the Town that the Town is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is subject to solicitor-client privilege and information that is deemed to be personal information. Under MFIPPA, “personal information” means recorded information about an identifiable individual, including:
 - i. Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
 - ii. Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
 - iii. Any identifying number, symbol or other particular assigned to the individual;
 - iv. The address, telephone number, fingerprints or blood type of the individual;
 - v. The personal opinions or views of the individual except if they relate to another individual;
 - vi. Correspondence sent to an institution by the individual that is implicit or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
 - vii. The view or opinions of another individual about the individual; and

- viii. The individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

It also means any information that is of a personal nature to Town employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Corporation or could give the person to whom it is disclosed an advantage. Confidential information includes, but not limited to the following information:

- i. Disclosed or discussed at a Closed Session meeting of Council;
 - ii. That is circulated to Members of Council and marked "Confidential"; and
 - iii. That is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information:
 1. Personal matters about an identifiable individual(s);
 2. Information about suppliers provided for evaluation which might be useful to other suppliers;
 3. Information about real estate transactions which might be useful to property owners and real estate professionals
 4. Matters relating to legal affairs of the Town; sources of complaints where the identity of the complainant is given in confidence; items under negotiations; and
 5. Matters identified as solicitor-client privileged.
 6. Records related to internal policies and practices, which if disclosed, may prejudice the effective performance of a municipal operation.
 7. Records of a financial nature reflecting information given or accumulated in confidence.
 8. Files prepared in connection with litigation and adjudicative proceedings.
 9. Reports of consultants, policy drafts and internal communications, which, if disclosed, may prejudice the effective operation of the municipality.
- g) **Council or Municipal Council Members** means all elected positions of the Council of the Town of Wasaga Beach.
- h) **Corporation** means the Corporation of the Town of Wasaga Beach.
- i) **Employee** means a person employed by the Corporation of the Town of Wasaga Beach, including those employed on a personal services contract, and volunteers, but does not include Members.
- j) **Frivolous** means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense.
- k) **Gifts and Benefits** means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment.
- l) **Good Faith** means in accordance with standards of honesty, trust and sincerity.
- m) **Hospitality** means instances where there is entertainment of or by outside parties for the furtherance of municipal business.

- n) **Integrity Commissioner** means the Integrity Commissioner appointed by Council pursuant to the *Municipal Act, 2001*.
- o) **Members** include the Mayor and Members of Council, appointed members to Boards and Committees of the Town of Wasaga Beach.
- p) **Municipal (Town) Property** means items, services or resources which are the property of the Town including but not limited to: materials, equipment, vehicles, facilities, technology, Town-developed computer programs of technological innovations, databases, intellectual property, Town –owned images, logos, branding, and supplies.
- q) **Municipality** means the Corporation of the Town of Wasaga Beach.
- r) **Office** means the authority and duties attached to the position of being an elected member of Council.
- s) **Pecuniary interests** are interests that have a direct or indirect financial impact or as defined under the current *Municipal Conflict of Interest Act* as amended from time to time they include:
- i. Any matter in which the member has a financial interest;
 - ii. Any matter in which the member is a shareholder, director or senior officer of or holds a controlling interest in a corporation that does or does not offer its securities to the public, and such corporation has a financial interest;
 - iii. Any matter in which the member is a partner of a person or is in the employment of a person that has a financial interest; and
 - iv. Any matter in which a parent, spouse, same sex partner or any child of the member has a financial interest, if known to the member.
- t) **Public Comment** means disclosures made in a public speech, lecture, radio or television broadcast, in the press or book form.
- u) **Vexatious** means without reasonable or probable cause or excuse.

7.0 GENERAL STANDARDS OF CONDUCT

- 7.1 Members are responsible for making honest statements. No member shall make a statement when they know that statement is false. No member shall make a statement with the intent to mislead Council or members of the public.
- 7.2 Members shall at all times serve and be seen to serve their constituents in a conscientious and diligent manner.
- 7.3 Members will conduct their dealings with each other in ways that maintain public confidence in the office to which they have been elected, are open and honest, focus on issues rather than personalities, avoid aggressive, offensive or abusive conduct.
- 7.4 Members should be committed to performing their functions with integrity, accountability and transparency.
- 7.5 Members shall perform official duties and arrange their public affairs in a temperate and abstemious manner that promotes public confidence and respect and will bear close public scrutiny.

- 7.6 It shall be the duty of all Members to abide by all applicable By-laws, legislation, policies and procedures applicable to the Town and pertaining to their position as a Member.
- 7.7 Members shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of Official Duties to the Town or Local Board.
- 7.8 Every Member in exercising his or her powers and in discharging his or her Official Duties shall, in accordance with the *Municipal Act, 2001*, and *Municipal Conflict of Interest Act*:
- a) Seek to advance the common good of the Town of Wasaga Beach;
 - b) Truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability;
 - c) Exercise care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
 - d) Exercise his or her powers only for the purpose for which they were intended; and
 - e) Competently exercise his or her office by educating themselves either formally or informally, in matters pertaining to their official duties.

8.0 RESPONSIBILITIES

- 8.1 Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for committees. Authority to act on behalf of Council, including through a Committee, can only be delegated by Council or through law.
- 8.2 Council is responsible for and dedicated to providing good and effective government for the public in an open, accountable and transparent manner.
- 8.3 A fiduciary relationship exists between the Council and inhabitants of the municipality.
- 8.4 Members of Council:
- a) May not impugn or malign a debate or decision or otherwise erode the authority of Council.
 - b) When appointed to committees and other bodies as part of their duties must make every effort to participate diligently in these bodies with good faith and care.
 - c) Must uphold the law and conduct themselves with the highest degree of ethical behavior and integrity.
 - d) Must avoid conflict of interest.
 - e) Must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect.
 - f) May not make statements known to be false or make a statement with the intent to mislead Council or the public.
 - g) Are responsible in this Code for the actions of their staff, volunteers, agents or other representatives working on their behalf.
 - h) Must respect and not divulge confidential information.
- 8.5 Committees, Local Boards and Members of Committees/Local Boards:
- a) Members of the public appointed to committees or Local Boards are appointed at the pleasure of Council. They do not hold office nor do they represent a constituency within the community nor do they represent Council, or the Committee or the Local Board unless mandated to do so.

Members of the public appointed to committees and Local Boards must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.

- b) Committees and Local Boards operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.
- c) No Committee member/Local Board member may act beyond the mandate of the Committee/Local Board granted by Council. They must not direct discussions with residents, information meetings or communications including emails except:
 - i. As granted the right to do so by Council;
 - ii. Pursuant to the duties of a Member of Council; or
 - iii. Otherwise required by law

9.0 RESPECT FOR DECISION MAKING PROCESS

- 9.1 Members shall accurately and adequately communicate the decisions of Council or Committees/Boards such that respect for the decision and decision-making process is fostered.
- 9.2 Members shall not attempt directly or indirectly, to influence the decision-making process, as it relates to the award of contracts or settlement of claims. This includes but is not limited to direct or indirect personal contact or interaction with the parties administering or directly involved in such processes.

10.0 GIFTS AND BENEFITS

- 10.1 No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.
- 10.2 For these purposes a fee or advance, gift or benefit provided with the member's knowledge to a member's spouse, child, parent, brother, sister, father-in-law, mother-in-law, sister-in-law and brother-in-law 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.
- 10.3 The following are recognized as exceptions:
 - a) Compensation or benefit authorized by Council'
 - b) Such gifts or benefits that normally accompany the responsibilities of office and area received as an incident or protocol or social obligation;
 - c) A political contribution otherwise reported by law;
 - d) Services provided without compensation by persons volunteering their time;
 - e) A suitable memento of a function honoring the member;
 - f) Food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country;
 - g) Food and beverages consumed at banquets, receptions or similar events, if;
 - i. Attendance serves a legitimate business purpose;
 - ii. The person extending the invitation or a representation of the organization is in attendance; and

iii. The value is reasonable and the invitations infrequent.

h) Communication to the offices of a member, including unpaid subscriptions to newspapers and periodicals

10.4 Except in the case of category a) or f), a member may not accept a gift or benefit worth in excess of \$200 or gifts and benefits from one source during a calendar year worth in excess of \$200.

10.5 A member may not accept gifts, hospitality or entertainment that cannot be used/consumed within a 24 hour period and if the offer is infrequent (i.e. less than two (2) or three (3) times a year), and appropriate to the occasion.

10.6 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 may seek preferential treatment.

11.0 DISCLOSURE STATEMENT

11.1 In the case of categories 10.3 b) e) f) g) and h), if the value of the gift or benefit exceeds \$200, or if the total value received from any one source during the course of a calendar year exceeds \$200, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner. The disclosure statement must indicate:

- a) The nature of the gift or benefit;
- b) Its source and date of receipt;
- c) The circumstances under which it was given or received;
- d) Its estimated value;
- e) What the recipient intends to do with any gift; and
- f) Whether any gift will at any point be left with the Town.

11.2 A disclosure statement must be filed even if the gift or benefit is immediately returned. Any disclosure statement will be a matter of public record.

11.3 On receiving a disclosure statement the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in the Integrity Commissioner's opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes the preliminary determination that the receipt of the gift may create a conflict, he or she shall call upon the member of Council to justify the receipt of the gift or benefit.

11.4 Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, "request" or forfeit the gift or remit the value of any gift or benefit already consumed to the Town.

12.0 CONFIDENTIAL INFORMATION

12.1 No member shall disclose or release by any means to any member of the public, or in any way divulge any confidential information, including personal information or any aspect of deliberations acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council resolution to do so.

- 12.2 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council, Local Board resolution (if so empowered), or required by law to do so.
- 12.3 Nor shall members use confidential information including information that they have knowledge of by virtue of their position that is not in the public domain, including e-mails and correspondence from other Members, or third parties, for personal or private gain, or for the gain of relatives or any person or corporation or cause detriment to the Town, Council, Local Board, or others. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of Town property or assets.
- 12.4 Confidential information includes information in the possession of the Town that the Town is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege. Members shall not disclose, use or release information in contravention of applicable privacy law.
- 12.5 The *Municipal Act, 2001*, permits information that concerns personal matters, labour relations, litigation, property acquisitions/dispositions, and the security of the property of the Town or a local board, solicitor/client privilege, and matters authorized in other legislation, to remain confidential. For the purposes of the Code of Conduct, "confidential information" also includes this type of information.
- 12.6 Under the Town of Wasaga Beach Procedural By-law as amended from time to time a matter that has been discussed in a closed meeting remains confidential. Members have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members shall not either directly or indirectly, release, make public or in any way divulge the content of any such matter, or the substance of deliberations, of the closed meeting including memorandums and staff reports that are distributed for consideration during the closed meeting to anyone, unless specifically authorized by Town Council resolution or required by law.
- 12.7 Examples of the types of information that a member of Council must keep confidential include but are not limited to the following:
- a) Items under litigation, negotiation, or personnel matters;
 - b) Information that infringes on the rights of others (e.g., sources of complaints);
 - c) Price schedules in contract tender or Request For Proposal submissions if so specified;
 - d) Information deemed to be "personal information" under the *Municipal Freedom of Information Protection of Privacy Act* (MFIPPA) and
 - e) Statistical data required by law not to be released (e.g. certain census or assessment data).
- 12.8 Members of Council shall not access or attempt to gain access to confidential

information in the custody of the Town unless it is necessary for the performance of their duties and not prohibited by Council policy.

- 12.9 Members are only entitled to information in the possession of the Town that is relevant to matters before the Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen. As one example, no member should have access to documents or receive any information related to a particular procurement process while the process is ongoing.

13.0 COMMUNICATIONS AND MEDIA RELATIONS

- 13.1 Members of Council will attempt to accurately and adequately communicate the attitudes and decisions of Council, even if they disagree with a majority decision of Council, so that:
- a) There is respect for the decision making process of Council.
 - b) Official information related to decisions and resolutions made by Council will normally be communicated in the first instance to the community and the media in an official capacity by the Clerk or designate.
 - c) The Mayor shall be the official spokesperson for the Town. If the Mayor is not available, then the CAO shall assume that role.
 - d) Information concerning adopted policies, procedures and decisions of Council is conveyed openly and accurately.
 - e) Confidential information will be communicated only when and after determined by Council.
 - f) Members conduct their dealings with each other in ways that maintain public confidence in the Office to which they have been elected, members remain open and honest, and members are focused on the issue rather than personalities and avoid aggressive, offensive or abusive conduct.

14.0 USE OF TOWN PROPERTY, SERVICES AND OTHER RESOURCES

- 14.1 No member of Council shall use, or permit the use of Town Property, including land, facilities, equipment, supplies, services, staff or other resources (for example, Town-owned materials, computers, networks, websites, Corporate transportation) for activities other than the business of the Corporation. Nor should any member obtain personal benefit or financial gain from the use or sale of Town Property, including Town-developed intellectual property (for example, inventions, creative writings, computer programs and drawings), technical innovations, Town owned images, logos, coat of arms, or other items capable of being patented, since all such property remains exclusively that of the Town.
- 14.2 Members shall conduct themselves in accordance with the provisions of the Town technology use policies. The Town of Wasaga Beach licenses the use of computer software from a variety of vendors. The Town does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable license. This policy applies to the use of blackberries, personal computers, fax machines, printers, etc.

14.3 Members shall conduct themselves in accordance with the Town's Use of Corporate Resources for Election Purposes Policy

15.0 MUNICIPAL CONFLICT OF INTEREST ACT

15.1 Members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act* as amended from time to time.

15.2 The following principles should be used as a guide:

- a) In making decisions, always place the interests of the taxpayers first and, in particular, place them before the interests of colleagues on Council, staff, friends or family.
- b) Always interpret the phrase "Conflict of Interest" in the broadest possible terms.
- c) Any factor which could be considered a conflict by taxpayers should be treated as a conflict and be disclosed by the Member of Council.
- d) If in doubt, it is better to disclose a situation.
- e) If in doubt, it is the responsibility of individual Members of Council to obtain independent legal advice with respect to any situation that might arise whereby there is a potential for a conflict of interest.
- f) It is considered a breach of this policy to require or to attempt to burden staff members to assist in the determination of a conflict of interest for individual Members of Council.

16.0 TRANSPARENCY & OPEN GOVERNMENT

16.1 Members of Council will endeavor to conduct and convey Council business in an open and public manner so that the process, logic and rationale which were used to reach conclusions or decisions are available to the stakeholders.

17.0 PROFESSIONAL DEVELOPMENT

17.1 Members of Council have an obligation to promote, support, pursue and partake in opportunities for professional development in accordance with Council's policy, including but not limited to:

- a) Federation of Canadian (FCM) Municipalities Conferences (when in Ontario)
- b) Association of Municipalities of Ontario (AMO) Conferences
- c) Ministry of Municipal Affairs & Housing seminars
- d) Provincial Professional Association Training Institutes (Ontario Good Roads Association (OGRA), AMCTO, etc)
- e) Provincial and Municipal Council Orientation sessions

17.2 Members of Council are encouraged to stay updated on issues and trends so that they can be as efficient and effective as possible in the carriage of their duties and responsibilities.

18.0 IMPROPER USE OF INFLUENCE

18.1 No Member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

18.2 Examples of prohibited conduct are the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates (business or otherwise). This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

18.3 For the purposes of this provision "private advantage" does not include a matter:

- a. That is of general application;
- b. That affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- c. That concerns the remuneration or benefits of a member of Council as authorized by Council.

19.0 BUSINESS RELATIONS

19.1 No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Town except in compliance with the terms of the *Municipal Conflict of Interest Act* as amended from time to time.

19.2 A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

20.0 EXPENSES

20.1 Members shall comply with the provisions of the Council Expenses Policy as amended from time to time.

21.0 CONDUCT AT MEETINGS OF COUNCIL AND COMMITTEES

21.1 Members of Council shall conduct themselves with decorum at Council and Committee meetings in accordance with the provisions of the Town of Wasaga Beach Procedural By-Law, as amended from time to time and this Code of Conduct.

22.0 CONDUCT RESPECTING STAFF

22.1 Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategic priorities through the work of staff.

22.2 Employees have an obligation to recognize that members of Council have been duly elected to serve the residents of Wasaga Beach and respect the role of Council in directing the actions of the Town.

22.3 Employees serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Members have no individual capacity to direct members of staff to carry out particular functions. The Mayor has the authority to direct all staff.

- 22.4 Inquiries, issues or concerns about or to staff from Members should be directed to the Chief Administrative Officer or the appropriate Department Head.
- 22.5 Only Council as a whole and no single member has the authority to direct staff, (except the Mayor), approve budget, policy, committee processes and other such matters, unless specifically authorized by Council.
- 22.6 Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the Town.
- 22.7 Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. Similarly, Employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed for their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence Employees in the performance of such duties and obligations.
- 22.8 Certain Employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.
- 22.9 No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.
- 22.10 In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Code of Conduct and include dealing with constituents and the general public, participating as Committee members, participating as Chairs of Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of Town staff in both the carrying out of their responsibilities and in dealing with the Council.
- 23.0 DISCREDITABLE CONDUCT (INTERPERSONAL BEHAVIOUR)**
- 23.1 All members of Council have a duty to treat members of the public, one another and staff appropriately, without abuse, bullying or intimidation. All members of Council shall ensure that their work environment is free from discrimination and of personal and sexual harassment.
- 23.2 The *Ontario Human Rights Code* applies, as does the Town of Wasaga Beach's Workplace Violence and Harassment Policies, addressing a harassment-free and discrimination-free workplace adopted by Council.

- 23.3 Members shall abide by the provisions of the *Human Rights Code*, as amended, and, in doing so, shall treat every person, including other Members, employees, and individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 23.4 In accordance with the *Human Rights Code*, as amended, Members shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, and age, record of offences, marital status, family status or disability.
- 23.5 In accordance with the *Human Rights Code*, as amended, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 23.6 Without limiting the generality of the foregoing, Members shall not:
- a) Make inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
 - b) Display materials or transmit communications that are inappropriate, offensive, insulting or derogatory via any communication means, including but not limited to social media, print material, websites or verbally;
 - c) Make threats or engage in any abusive activity or course of conduct towards others;
 - d) Vandalize the personal property of others;
 - e) Commit assault of any kind, including making unwanted physical contact, including touching, patting, or pinching; or
 - f) Refuse to converse or interact with anyone based on any ground listed in the *Human Rights Code*, as amended.
- 23.7 Harassment which occurs in the course of, or is related to, the performance of official duties by Members is subject to this Code and shall be investigated by the Integrity Commissioner. If an Employee or a member of the public brings forward a harassment complaint against a Member, the complaint procedure under the Town's Violence and Harassment in the Workplace Policies will apply. In all other cases involving a Member, complaints will be addressed in accordance with this Code.

24.0 ADHERENCE TO COUNCIL POLICIES AND PROCEDURES

- 24.1 A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by Council.
- 24.2 This provision does not prevent a Member from requesting that Council grant an exemption from a policy.

25.0 REPRISALS AND OBSTRUCTION

- 25.1 Members of Council shall respect the integrity of the Code of conduct. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the Code of Conduct to

obstruct the Integrity Commissioner (or other investigator) in the carrying out of his or her responsibilities, as, for example, providing inaccurate or misleading information to the

Integrity Commissioner, refusing to answer inquiries or by the destruction of (records) documents or the erasing of electronic communications.

26.0 ACTING ON THE ADVICE OF THE INTEGRITY COMMISSIONER

26.1 Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner, and the information or facts have not changed in the interim.

27.0 COMPLIANCE WITH THE CODE OF CONDUCT

27.1 Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code of Canada* or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.

27.2 In addition to any other consequence imposed by law, Members found to have breached this Code may be subject to discipline, including a written or verbal apology, return of a gift or benefit, removal for a Local Board or Committee, loss of Chairmanship, censure, a reprimand, or where applicable, suspension of remuneration paid for his or her services as a Member, for a period of up to ninety (90) days.

27.3 The Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code.

27.4 Any individual, including members of the public, Town employees, and members of Council, who have reasonable grounds to believe that a Member has breached a provision of the Code, may proceed with a complaint.

27.5 An organization, employee, Member or member of the public having reasonable grounds to believe that Member has breached this Code, may proceed with a complaint. Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring. No action will be taken on a complaint received beyond these deadlines.

27.6 A complainant does not have to pursue the informal complaint process set out in Section 28.1 prior to proceeding with the formal complaint process set out in Section 28.2.

28.0 PROCESS – COMPLAINTS

Informal Complaints

28.1 Any individual who has identified or witnessed behavior or activity by a member that appears to be in contravention of the Code may address their concerns in the following manner:

a) Advise the member that their behavior or activity contravenes the Code.

- b) Encourage the member to stop the prohibited behavior or activity.
- c) If applicable, confirm to the member your satisfaction or dissatisfaction with his or her response to the concern identified.
- d) Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.
- e) If not satisfied with the response received through the informal process, an individual may proceed with a formal complaint through the Integrity Commissioner as outlined in Section 28.2.

Formal Complaints

- 28.2 Any individual who has identified or witnessed behavior or activity by a member that appears to be in contravention of the Code may address their concerns through the formal complaint process set out below.
- a) All formal complaints must be made in writing, using the Town's Code of Conduct Complaint Form/Affidavit and shall be dated and signed by the complainant.
 - b) The complaint must include an explanation as to why the issue raised may be in contravention of the Code and any evidence in support of the allegation must be included with the Complaint Form/Affidavit.
 - c) Any witnesses in support of the allegation must be identified in the Complaint Form/Affidavit;
 - d) The Complaint Form/Affidavit must include the name of the member alleged to have breached the Code, the section of the Code allegedly contravened, the date, time and location of the alleged contravention and any other information as required.
 - e) The complaint shall be filed with the Integrity Commissioner who shall confirm that the information is complete as to a), b), c) and d) of this section. The Integrity Commissioner will determine whether the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or policies; and
 - f) The Integrity Commissioner may request additional information from the complainant.
 - g) All documents and materials regarding the complaint shall be kept confidential.

Response of Integrity Commissioner of Complaint Outside Jurisdiction

- 28.3 If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to non-compliance with the Code, the Integrity Commissioner shall advise the complainant in writing as follows:
- a) **Criminal Matter** – if the complaint is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service.
 - b) **Municipal Conflict of Interest** – if the complaint is an allegation with respect to matters under *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with their own legal counsel.
 - c) **Municipal Freedom of Information and Protection of Privacy** – If the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be referred to the Clerk to have the matter reviewed under that Act.

- d) **Discrimination or Harassment** – if the complaint is an allegation of discrimination or harassment, the complainant shall be advised to file a complaint directly to the Human Resources Department under the Town’s Violence and Harassment in the Workplace policy. The complainant will also be advised of his or her right to advance an application to the Ontario Human Rights Tribunal.
- e) **Closed Meeting Investigation** – If the complaint applies to closed meeting investigations undertaken in accordance with Section 239.1 and 239.2 of the Municipal Act, 2001. Please refer to the Town of Wasaga Beach Closed Meeting Investigation Policy/Procedure.

28.4 In the event that a resolution of the complaint is not achieved at the local level through the Integrity Commissioner, any complainant or member may request the complaint be dealt with by the Office of the Ontario Ombudsman.

28.5 If the matter is covered by other policies with a complaint procedure or legislation, the complainant will be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner.

Refusal to Conduct An Investigation

28.6 If upon review of a complaint, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are no or insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the complainant and the Member identified in the Complaint Form/Affidavit.

Opportunity for Resolution

28.7 If at any time, following the receipt of a formal complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be made to achieve an informal resolution.

29.0 INVESTIGATION

29.1 If the Integrity Commissioner determines that a formal investigation is required he or she shall proceed in the following manner, subject to the Integrity Commissioner’s ability to elect to exercise the powers of a commissioner under Parts 1 and II of the *Public Inquiries Act*.

29.2 The Integrity Commissioner shall provide a copy of the complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within fourteen (14) days.

29.3 The Integrity Commissioner shall give a copy of the response provided by the member to the complainant with a request for a written reply within fourteen (14) days.

29.4 If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any Town work location relevant to the complaint for the purpose of investigation and potential resolution.

- 29.5 The Integrity Commissioner may make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation encountered during the investigation.
- 29.6 At any time the complainant may abandon the request for an investigation and the Integrity Commissioner will cease his or her investigation.

30.0 RECOMMENDATION REPORT

- 30.1 Upon completion of an investigation, the Integrity Commissioner shall report to the complainant and the Member on the results of his or her review within ninety (90) days of receiving a complete Letter of Complaint. If the investigation process is going to take more than ninety (90) days, the Integrity Commissioner shall provide an interim report to the complainant and member indicating when the complete report will be available.
- 30.2 If during the investigation process, the complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, the terms of any resolution and any recommended action within thirty (30) days.
- 30.3 If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report his or her findings to Council, including a recommendation as to the imposition of a penalty as set out in the *Municipal Act* of: a reprimand; suspension of remuneration paid to the member for a period of up to ninety (90) days.
- 30.4 The Integrity Commissioner may also recommend that Council impose one of the following sanctions: written or verbal public apology; return of property or reimbursement of its value or of monies spent; removal from membership of a committee; and removal as chair of a committee.

31.0 DUTY OF COUNCIL

- 31.1 The Council shall consider the report of the Integrity Commissioner within thirty (30) days of it being received by the Clerk and shall take the action it considers appropriate with regard to the recommendations(s) of the Integrity Commissioner.
- 31.2 The Member will be required to appear before a Closed Session Committee of the Whole Meeting to be sanctioned.
- 31.3 The breach and sanction shall be ratified by resolution in open session of Council.
- 31.4 In circumstances where the alleged breach of trust or other misconduct is serious in nature, Council may pass a resolution, pursuant to the *Municipal Act, 2001*, requesting a judicial investigation into the Member's conduct.

No Complaints or Reports Prior to Election

- 31.5 No complaint regarding a Member who is a candidate in an election may be referred to the Integrity Commissioner for review and/or investigation between Nomination Day and the Date of the inaugural meeting of Council in any year in which a regular municipal election will be held. Any complaint received after Nomination Day shall be deemed received by the Integrity

Commissioner on December 1 in a regular election year and the complainant shall be so advised of this process.

31.6 The Integrity Commissioner shall not make any report to Council or any other person in any year in which a regular municipal election is to be held.

31.7 Any reports would proceed to the first Council meeting held after the inaugural meeting of the new Council.

32.0 CONFIDENTIALITY OF COMPLAINT DOCUMENTS

32.1 The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the Town or not, that come into their possession or to their knowledge during the course of their duties as require by section 223.5 of the *Municipal Act*.

32.2 Pursuant to section 223.5(3) of the *Municipal Act*, this section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

32.3 If the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that in the Integrity Commissioner's opinion is required for the purposes of the report.

32.4 If the Integrity Commissioner issues an annual or other periodic report to Council on his or her activities, the Integrity Commissioner shall summarize the advice he or she has given but shall not disclose confidential information that could identify a person concerned.

33.0 OTHER DUTIES OF INTEGRITY COMMISSIONER

33.1 In addition, to conducting investigations regarding alleged breaches of the Code, the Integrity Commissioner shall have the following responsibilities:

- a) Provide information to Council as to their obligations under the Code;
- b) Provide advice to individual members regarding specific situations as they relate to the application of the Code;
- c) Provide advice to Council on other policies and procedures that relate to the ethical behavior of members;
- d) Provide general advice on conflict of interest issues noting that this advice may not be used in defense of allegations related to conflict of interest;
- e) Provide information to the public regarding the Code and the obligations of members under the Code; and
- f) Provide an annual report to Council on the activities of the Integrity Commissioner.

34.0 REQUESTS FOR ADVICE

34.1 Where an individual member is seeking to obtain advice from the Integrity Commissioner, the member shall contact the Integrity Commissioner directly by fax, email or telephone.

34.2 The Integrity Commissioner shall provide his or her advice in writing to the member.

34.3 Any written advice given by the Integrity Commissioner to a member, as it relates to the Code, binds the Integrity Commissioner in any subsequent consideration of the member's conduct in the same matter provided the relevant facts known to the member were disclosed to the Integrity Commissioner.

34.4 Any written requests for advice and responses to such requests are covered under the *Municipal Freedom of Information and Protection of Privacy Act*.

35.0 ANNUAL REPORT TO COUNCIL

35.1 In completing its annual report to Council, the Integrity Commissioner shall include information on the nature and volume of activity for the past year and provide examples, anonymized in respect of advice provided and the nature of complaints received and responded to.

35.2 The annual report of the Integrity Commissioner shall be provided to Committee of the Whole for information purposes. The report is a public document.

35.3 The Integrity Commissioner shall file his or her annual report no later than six (6) months after his or her initial appointment and by March 31 annually thereafter.

36.0 IMPLEMENTATION

36.1 At the beginning of each new term, Members of Council will be required to sign two copies of the Code of Conduct (one for themselves and one for the Clerk's Office) to convey to each other and all stakeholders that they that they have read the information in its entirety and acknowledges receipt of the Code.

36.2 A Code of Conduct component will be included as part of the orientation sessions for each new Council.

36.3 Members of Council are expected to formally and informally review their adherence to the provisions of the Code on a regular basis or when so requested by Council.

37.0 INTERPRETATION AND REVIEW

37.1 If any clarification is required on this Code of Conduct, Members of Council are asked to consult with the Integrity Commissioner.

37.2 The Code of Conduct will be reviewed as required, but in any case no later than four (4) years from the date of the most recent review, in preparation for the new Term of Council.

37.3 The Clerk will be responsible for initiating the review of this Policy.

38.0 ACKNOWLEDGEMENT & SIGNING

The undersigned Member of Council hereby acknowledges receipt of a copy of By-Law No. 2016- , being the Mayor and Councillors "Code of Conduct By-Law". By signing this Code of Conduct, the Member of Council acknowledges that they have read the information in its entirety and acknowledges receipt.

| Printed Name & Office | Signature | Date Signed |
|----------------------------------|------------------|--------------------|
| Mayor Brian Smith | | |
| Deputy Mayor Nina Bifulchi | | |
| Councillor Ron Anderson | | |
| Councillor Sylvia Bray | | |
| Councillor Ron Ego | | |
| Councillor Bonnie Smith | | |
| Councillor Bill Stockwell | | |