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Report To: General Government Committee

Date of Meeting: February 11, 2019

Report Number: CLD-004-19 **Resolution:** GG-039-19

File Number: **By-law Number:** 2019-009, 2019-010 & 2019-011

Report Subject: **Bill 68 Implementation Requirements**

Recommendations:

1. That Report CLD-004-19 be received;
2. That the By-law attached to Report CLD-004-19 as Attachment 1, amending Section 7 of the Council Code of Conduct to include provisions regarding Harassment, be approved;
3. That the By-law attached to Report CLD-004-19, as Attachment 3, authorizing the Mayor and Clerk to execute an agreement amending the agreement with Fasken Martineau regarding the details of the appointment of Guy Giorno as Clarington's Integrity Commissioner, be approved;
4. That the Council-Staff Relations Policy, Attachment 4 to Report CLD-004-19, be approved;
5. That the Policy for Pregnancy/Parental Leaves for Members of Council, Attachment 5 to Report CLD-004-19, be approved;
6. That the By-law attached to Report CLD-004-19, as Attachment 6, amending the Procedural By-law Section 7.2.1, be approved; and
7. That all interested parties listed in Report CLD-004-19 and any delegations be advised of Council's decision.

Report Overview

Bill 68, *Modernizing Ontario's Municipal Legislation Act*, made several changes to the *Municipal Act, 2001*, which come into effect on staggered dates. This Report is a follow-up to Report CLD-003-2018, and explains the changes effective March 1, 2019 and staff's proposed changes.

1. Background

- 1.1 Bill 68, entitled "Modernizing Ontario's Municipal Legislation Act, 2017", received Royal Assent on May 30, 2017. A phased approach to the proclamation of Bill 68 was used, which would brought some of the legislative amendments into force on January 1, 2018, while other amendments will not come into force until March 1, 2019.
- 1.2 In January, 2018, [Report CLD-003-18](#) summarized the impact of the changes as a result of Bill 68. Arising out of Report CLD-003-18, Council approved the following Resolution #GG-026-18:

That Report CLD-003-18 be received;

That the draft By-law (Attachment 1 to Report CLD-003-18), amending Clarington's Procedural By-law, be enacted as amended to delete Sections 2 and 3; and

That staff be directed to report back on implementation requirements, process and any associated costs for electronic participation in Council, Committee and Local Board meetings.
- 1.3 Accordingly, By-law 2018-002 was passed to amend the procedural by-law with regard to the definition of "meeting".
- 1.4 A separate report will come forward to Committee for consideration regarding electronic participation in Council, Committee and Local Board meetings and has not been included in this Report.

- 1.5 The second proclamation date of March 1, 2019 will bring into force changes to municipal accountability and transparency. They will include provisions respecting codes of conduct, integrity commissioner, conflict of interest, mandatory policies and other provisions. The following matters are addressed in the discussion section of this Report:
- Mandatory requirements to adopt a Code of Conduct for council, its committees, and local boards, including new regulations governing the contents of the Codes of Conduct.
 - Mandatory appointment of an Integrity Commissioner to investigate alleged breaches of the Codes of Conduct and the *Municipal Conflict of Interest Act* by Councillors and members of local boards.
 - A requirement that all alleged conflicts of interest be supplied in a written form, and that all written submissions are recorded in a public registry.
 - The mandatory adoption of policies to provide for several matters including:
 - The manner in which the municipality will preserve its tree canopy and natural vegetation;
 - The relationship between Council and officers/employees of the municipality; and
 - Parental leave for members of Council.
 - Changes to the *Municipal Conflict of Interest Act* respecting whether a member can participate in deliberation of possible penalty regarding themselves.
- 1.6 In January, 2018, there were further amendments to the Act for which the date of proclamation had not yet been announced. These include provisions related to regulations to expand the scope of eligible investment tools available to the municipality, property taxes, tax collection, and tax sales. Since the time of that Report, these provisions have come into force and effect. Finance Staff will report on these provisions as is necessary. Further to Council's direction, staff are reviewing the changes to investment regulations. Staff will be reviewing property tax policies as part of a continuing improvement process. There is no action required at this time.

2. Discussion

Code of Conduct Changes

2.1 [Regulation 55/18](#) will come into effect on March 1, 2019 which will result in the following prescribed subject matters that a municipality is required to include in the codes of conduct for members of the council of the municipality and of its local boards:

1. Gifts, benefits and hospitality.
2. Respectful conduct, including conduct toward officers and employees of the municipality or the local board, as the case may be.
3. Confidential information.
4. Use of property of the municipality or of the local board, as the case may be.

2.2 Clarington's current Code of Conduct specifically includes all of the above. However, Item 2 is currently included in both the Council Code of Conduct and the staff Harassment Policy E5. Following the Council Orientation Meeting of December 7, 2019, staff discussed this matter with Clarington's Integrity Commissioner who recommended that reference to Members of Council be removed from the Harassment Policy and that the harassment provisions be included in the Council Code of Conduct. Attachment 1 is the proposed by-law to amend the Council Code of Conduct. Attachment 2 is a redlined version of the Code of Conduct to include the deletion of section 7.2 to be replaced with sections 7.2 to 7.7.

2.3 Regarding Item 1, gifts, benefits and hospitality, Clarington's current Code of Conduct meets this requirement through Section 9 and therefore no change is required at this time. However, on December 13, 2017, Council of the Region of Durham passed the following resolution regarding the gifts and benefits and were looking to have the area Clerks work towards harmonizing this section of their respective Council's Code of Conduct.

"... G) That a revised Code be developed in consultation with area municipal Clerks with the goal of harmonizing "Gifts and Benefits" provisions within local Codes and the Regional Code, to the extent possible."

The area Clerks have met with the Integrity Commissioner to seek a recommended common provision. Staff will report back with on this matter once more information is available.

Integrity Commissioner Changes

- 2.4 Subsection 223.3(1) has been changed to expand the role of the Integrity Commissioner in the following respects:
- The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council and of local boards.
 - Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
 - Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
 - Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.
 - The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the Municipal Conflict of Interest Act.
- 2.5 Similarly, the following subsections were added to Section 223.3(2) regarding request for advice or education, which will be incorporated in the amended agreement:
- (2.1) A request by a member of council or of a local board for advice from the Commissioner under paragraph 4, 5 or 6 of subsection (1) shall be made in writing.
 - (2.2) If the Commissioner provides advice to a member of council or of a local board under paragraph 4, 5 or 6 of subsection (1), the advice shall be in writing.
 - (2.3) If the Commissioner provides educational information to the public under paragraph 7 of subsection (1), the Commissioner may summarize advice he or she has provided but shall not disclose confidential information that could identify a person concerned.

- 2.6 On February 27, 2017, Council enacted By-law 2017-019, being a by-law to appoint the Integrity Commissioner (IC) for the Municipality of Clarington and to set out the role of the IC. The Municipality entered into an agreement with Guy Giorno, Fasken Martineau, to act as Clarington's Integrity Commissioner with regard to complaints under the Code of Conduct. This agreement was based on the terms and conditions of the agreement that the Region of Durham entered into with Mr. Giorno for Integrity Commissioner Services, and was limited to IC services to Council. The Region of Durham is required to amend their agreement to include the new legislated responsibilities, including the expanded scope to include services to Local Boards. Staff have met with Clarington's IC and recommend that his contract for services be amended to reflect the new legislated responsibilities of the IC and that the Mayor and Clerk be authorized to execute the amending agreement (See Attachment 3).

Conflict of Interest Public Registry

- 2.7 To address anticipated requirements from Bill 68, in January, 2018 Council approved Resolution #GG-048-18 to require Members of Council to use written declaration forms as well as establishing an online declaration registry. As a result, the Accountability and Transparency webpage on Municipality's website (<https://www.clarington.net/en/town-hall/transparency-and-accountability.asp>) contains a link to Municipal Conflict of Interest Declaration of Interest Registry which includes the completed forms. No further action is required.

Mandatory Policy - Tree Canopy and Natural Vegetation

- 2.8 Section 270 of the Act requires that municipalities establish a policy governing the tree canopy and natural vegetation. These policies have been addressed through changes to the Official Plan. Report EGD-018-18 also addresses this legislative requirement. The Urban Forest Strategy was referred from the September 4, 2018 General Government Committee to the 2018-2022 Council and is included on the February 11, 2019 General Government Agenda for consideration.

Mandatory Policy – Council-Staff Relations

2.9 Subsection 270 (1) 2.1 of the Act requires that municipalities establish a policy governing the relationship between Members of Council and the officers and employees of the municipality. Staff have reviewed the existing policies referencing Council-Staff Relations, including:

- Council Code of Conduct
- Employee Code of Ethics Policy E1
- Harassment Policy E5
- Transparency and Accountability Policy F11
- Procedural By-law

In order to satisfy the new requirement and still keep the existing policies in place, Staff have drafted a new policy to cover Council-Staff Relations (Attachment 4) which is essentially a consolidation of the relevant sections of the above mentioned policies. Staff have reviewed several other municipalities' policies and the proposed draft policy is in line with those.

Mandatory Policy – Pregnancy and Parental Leaves for Members of Council

2.10 Section 270 of the Act requires that municipalities establish a policy regarding pregnancy and parental leaves for Members of Council. Although there are policies surrounding pregnancy and parental leaves for staff, there is nothing in place for Members of Council. In consultation with staff in Corporate Services and Finance, staff are recommending the draft policy, Attachment 5 to this Report.

Procedural By-law – Leaving the Room

- 2.11 The following Section 5(2.1) was added to the *Municipal Conflict of Interest Act*, regarding the consideration of penalty for the member:

The following rules apply if the matter under consideration at a meeting or a part of a meeting is to consider whether to suspend the remuneration paid to the member under subsection 223.4 (5) or (6) of the *Municipal Act, 2001* or under subsection 160 (5) or (6) of the *City of Toronto Act, 2006*:

1. Despite clauses (1) (b) and (c), the member may take part in the discussion of the matter, including making submissions to council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting. However, the member is not permitted to vote on any question in respect of the matter.
2. Despite subsection (2), in the case of a meeting that is not open to the public, the member may attend the meeting or part of the meeting during which the matter is under consideration.

- 2.12 Currently, Section 7.2.1 of Clarington's Procedural By-law states that "should a Member declare a pecuniary interest, he shall vacate the room in which the meeting is taking place." In 2011, the Procedural By-law was changed in an effort to meet the requirements of the MCI Act, regarding declarations. However, there is no legislative requirement to leave the room. As a result of the new MCI Act section, it is recommended that By-law 2015-029, Clarington's Procedural By-law, be amended. See Attachment 6, the draft amending by-law.

3. Concurrence

- 3.1 This report has been reviewed by the Director of Corporate Services, the Municipal Solicitor and the Director/Treasurer of Finance who concur with the recommendations of the Report.

4. Conclusion

4.1 It is respectfully recommended that Council enact the following to meet legislative requirements prior to March 1, 2019:

- Attachment 1 – Draft By-law to amend Section 7 of the Council Code of Conduct
- Attachment 4 – Policy regarding Council-Staff Relations
- Attachment 5 – Policy regarding Pregnancy and Parental Leaves for Members of Council


4.2 In order to update the Integrity Commissioner agreement and the procedural by-law, it is recommended that Council enact the following:

- Attachment 3 – Draft By-law to amend the agreement with the Integrity Commissioner
- Attachment 6 – Draft By-law to amend the Procedural By-law regarding deliberation and voting for Members who have declared an interest

5. Strategic Plan Application


Not applicable.

Submitted by:



C. Anne Greentree, B.A., CMO,
Municipal Clerk

Reviewed by:



Andrew C. Allison, B. Comm, LL.B
CAO

Staff Contact: June Gallagher, Deputy Clerk, 905-623-3379 ext. 2103 or
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Attachments:

Attachment 1 – Draft By-law to amend Section 7 of the Council Code of Conduct

Attachment 2 – Council Code of Conduct – Redlined to show proposed changes

Attachment 3 – Draft By-law to amend the agreement with the Integrity Commissioner

Attachment 4 – Policy regarding Council-Staff Relations

Attachment 5 – Policy regarding Pregnancy and Parental Leaves for Members of Council

Attachment 6 – Draft By-law to amend the Procedural By-law regarding deliberation and voting
for Members who have declared an interest

There are no interested parties to be notified of Council's decision.

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The Corporation of the Municipality of Clarington
By-law 2019-xxx

Being a by-law to amend the By-law 2017-020, which establishes the Code of Conduct for Members of Council.

Whereas section 223.2 of the *Municipal Act, 2001, S.O. 2001, c.25*, as amended, authorizes the municipality to establish a Code of Conduct for Members of the Council; and

Whereas the Council of the Municipality of Clarington passed By-law 2017-020, to establish a Code of Conduct for Members of Council; and

Whereas the Council of the Municipality of Clarington deems it necessary to update the Code of Conduct for Members of Council:

Now therefore the Council of the Municipality of Clarington hereby enacts as follows:

1. That subsection 7.2 of the Code of Conduct (Attachment A to By-law 2017-020) be deleted and replaced with the following subsections 7.2-7.7 with respect to harassment or discrimination:
 - 7.2 No member shall use indecent, abusive or insulting-words or expressions toward any other member, any member of staff or any member of the public.
 - 7.3 No member shall engage in Harassment of anyone. The *Human Rights Code* defines Harassment as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”
 - 7.4 No member shall engage in Discrimination against anyone on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability (the list of prohibited grounds of discrimination in the *Human Rights Code*).
 - 7.5 Sections 7.3 and 7.4 shall be interpreted in a manner consistent with the *Human Rights Code*.

7.6 The following examples of Harassment are illustrative only and not exhaustive:

(a) Examples Harassment in the workplace include:

- Physically abusive or aggressive behaviour such as pushing, hitting, finger pointing or standing close to the victim in an aggressive manner
- Using intimidating or disrespectful body language
- Verbally abusive behaviour such as yelling, insults, intimidating comments and name calling
- Spreading malicious rumours
- Excluding or ignoring the victim
- Making little or no eye contact with the victim and refusing to engage in common pleasantries
- Sabotaging the victim's work or claiming credit for it
- Repeatedly blaming another for mistakes
- Making false allegations in memos or other documents
- Undermining the victim's efforts by setting impossible goals and deadlines and impeding an employee's efforts at promotions or transfers
- Persistent excessive and unjustified criticism and constant scrutiny by a supervisor
- Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome
- Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome

- Reprisal or threat of reprisal by a person in a position to grant or deny a benefit to a person who has rejected his or her sexual proposition
 - Unnecessary or unwanted physical contact, ranging from touching, patting or pinching to physical assault
 - Leering or other suggestive gestures
 - Displaying, sending or communicating electronically or by any other means pornographic pictures or other offensive, sexually explicit material
 - Practical jokes of a sexual nature, which cause awkwardness or embarrassment
 - Compromising invitations
 - Unwelcome remarks, jokes or insults about a person's physical appearance, attire, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
 - The displaying of racist, derogatory or otherwise offensive material
 - Insulting gestures or practical jokes, or other action that causes embarrassment, based on grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
 - A refusal to converse or work with an individual because of his or her race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
- (b) The following examples, relative to employees who report directly to Council, do not constitute Harassment, providing they are undertaken without malice or intent to intimidate or undermine:
- Performance reviews
 - Work assignments

- Work evaluation
- Disciplinary measures taken by the employer for valid reasons
- Reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment

7.7 In the course of investigating a complaint that alleges Harassment or Discrimination, the Integrity Commissioner may make interim reports to Council, including interim reports that recommend measures to protect the complainant or to maintain the integrity of the investigation.

2. That this by-law shall take effect on the date of passing.

Passed in Open Council this XX day of February, 2019.

Adrian Foster, Mayor

C. Anne Greentree, Municipal Clerk

Municipality of Clarington

Council Code of Conduct

Municipality of Clarington
Code of Conduct for Members of Council

1. PRINCIPLES

- 1.1 Improving the quality of Municipal administration and governance can best be achieved by encouraging high standards of conduct on the part of all municipal officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the Municipality's and the Council members' reputation and integrity.
- 1.2 Key statements of principles that underline this Council Code of Conduct are as follows, members of Council shall,
- (a) serve, and be seen to serve, their constituents in a conscientious and diligent manner;
 - (b) be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, under the *Municipal Conflict of Interest Act*;
 - (c) perform their duties in office in a manner that promotes public confidence and will bear close public scrutiny;
 - (d) recognize, and act upon, the principle that democracy is best achieved when the operation of government is made as transparent and accountable to members of the public as possible; and
 - (e) seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the by-laws and policies adopted by Clarington Council.

2. DEFINITIONS

2.1 In this Council Code of Conduct:

- (a) "child" means a child born within or outside marriage and includes an adopted child or a person whom a member has demonstrated a settled intention to treat as a child of his or her family;
- (b) "Council Code of Conduct" means the rules which govern the conduct of members established pursuant to the authority of section 223.2 of the *Municipal Act, 2001, S.O. 2001, c. 25*;
- (c) "complaint" means a written request to investigate the conduct of any member for a possible violation of the Council Code of Conduct filed in accordance with the Complaint Procedure;

- (d) "confidential information" means any information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, or any other law, which includes, but is not limited to:
- (i) information of a corporate, commercial, scientific or technical nature received in confidence from third parties,
 - (ii) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*,
 - (iii) information that is subject to solicitor-client privilege,
 - (iv) information that concerns any confidential matters pertaining to matters related to an identifiable individual, personal, labour relations, litigation, property acquisition, the security of the property of the municipality or a local board,
 - (v) any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order, and
 - (vi) any information considered by, or made available to Council, during a closed meeting pursuant to subsection 239(2) of the *Municipal Act, 2001*.
- (e) "Council" means the Council of the Municipality;
- (f) "gift and benefits" means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment;
- (g) "information" means any record, document, data, material, correspondence or evidence however recorded, whether oral or in printed form, on film, by electronic means or otherwise;
- (h) "Integrity Commissioner" means the Integrity Commissioner appointed by the Council pursuant to section 223.3 of the *Municipal Act, 2001*;
- (i) "member" means a member of Council, unless the context otherwise requires;
- (j) "Municipality" means the Corporation of The Municipality of Clarington
- (k) "parent" means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;
- (l) "person" includes a corporation, partnership, association and any other entity, as the context allows, and expressly includes a member as well as

Council;

- (m) "spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage; and
- (n) "staff" means the municipal administrative staff of the Municipality and of its municipal corporations and local boards.

3. APPLICATION OF THIS CODE

3.1 This Council Code of Conduct applies to every member of Council and local boards.

4. COMPLIANCE WITH DECLARATION OF OFFICE

4.1 Every member shall act in accordance with his or her declaration of office sworn pursuant to Section 262 of the *Municipal Act, 2001*.

5. ADHERENCE TO COUNCIL POLICIES AND PROCEDURES

5.1 Every member shall observe and comply strictly with every provision of this Council Code of Conduct, as well as all other policies and procedures adopted or established by Council affecting the member, whether or not acting in his or her capacity as a member of Council.

6. CONDUCT AT MEETINGS

6.1 Every member shall conduct himself or herself properly and in a civil manner at Council, committee and other meetings, and in accordance with the provisions of the Municipality's Procedural By-law, this Council Code of Conduct, and any other applicable law.

7. CONDUCT RESPECTING OTHERS

7.1 Every member has the duty and responsibility to treat all members of the public, other members of Council, and all staff appropriately and without abuse, bullying or intimidation, and to ensure that the work environment is free from discrimination and harassment.

~~7.2 No member shall,~~

- ~~(a) use indecent, abusive or insulting words or expressions toward any other member, any member of staff or any member of the public; or~~
- ~~(b) speak in a manner that is discriminatory to any individual, based on that person's race, ancestry, place of origin, creed, gender, sexual orientation or gender identification, age, colour, marital status, or disability.~~

~~7.2 No member shall use indecent, abusive or insulting words or expressions toward any other member, any member of staff or any member of the public.~~

- 7.3 No member shall engage in Harassment of anyone. The *Human Rights Code* defines Harassment as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”
- 7.4 No member shall engage in Discrimination against anyone on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability (the list of prohibited grounds of discrimination in the *Human Rights Code*).
- 7.5 Sections 7.3 and 7.4 shall be interpreted in a manner consistent with the *Human Rights Code*.
- 7.6 The following examples of Harassment are illustrative only and not exhaustive:
- (a) Examples Harassment in the workplace include:
- Physically abusive or aggressive behaviour such as pushing, hitting, finger pointing or standing close to the victim in an aggressive manner
 - Using intimidating or disrespectful body language
 - Verbally abusive behaviour such as yelling, insults, intimidating comments and name calling
 - Spreading malicious rumours
 - Excluding or ignoring the victim
 - Making little or no eye contact with the victim and refusing to engage in common pleasantries
 - Sabotaging the victim’s work or claiming credit for it
 - Repeatedly blaming another for mistakes
 - Making false allegations in memos or other documents
 - Undermining the victim’s efforts by setting impossible goals and deadlines and impeding an employees efforts at promotions or transfers
 - Persistent excessive and unjustified criticism and constant scrutiny by a supervisor

- Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome
 - Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome
 - Reprisal or threat of reprisal by a person in a position to grant or deny a benefit to a person who has rejected his or her sexual proposition
 - Unnecessary or unwanted physical contact, ranging from touching, patting or pinching to physical assault
 - Leering or other suggestive gestures
 - Displaying, sending or communicating electronically or by any other means pornographic pictures or other offensive, sexually explicit material
 - Practical jokes of a sexual nature, which cause awkwardness or embarrassment
 - Compromising invitations
 - Unwelcome remarks, jokes or insults about a person's physical appearance, attire, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
 - The displaying of racist, derogatory or otherwise offensive material
 - Insulting gestures or practical jokes, or other action that causes embarrassment, based on grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
 - A refusal to converse or work with an individual because of his or her race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
- (b) The following examples, relative to employees who report directly to Council, do not constitute Harassment, providing they are undertaken without malice or intent to intimidate or undermine:
- Performance reviews

- Work assignments
- Work evaluation
- Disciplinary measures taken by the employer for valid reasons
- Normal workplace conflict that may occur between individuals, or differences in opinion between co-workers
- Requesting documentation in support of an absence from work
- Reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment

7.7 In the course of investigating a complaint that alleges Harassment or Discrimination, the Integrity Commissioner may make interim reports to Council, including interim reports that recommend measures to protect the complainant or to maintain the integrity of the investigation.

8. CONDUCT RESPECTING STAFF

8.1 Every member acknowledges that staff operate under the direction of the senior municipal administration, and in accordance with the decisions of Council, and are required to serve the Municipality as a whole and not the needs or desires of any individual member.

8.2 Every member shall:

- (a) be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any member or faction of the Council; and
- (b) show respect for staff, and for their professional capacities and responsibilities.

8.3 No member shall,

- (a) maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff;
- (b) compel any member of staff to engage in partisan political activities, or subject any member of staff to threat or discrimination for refusing to engage in any such activity; or
- (c) use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that staff person's duties, including the duty to disclose improper activity.

9. **GIFTS, BENEFITS, SERVICES AND HOSPITALITY**

For the purposes of this Code, a gift or benefit provided, with the member's knowledge, to a member's spouse, child or parent, or to his or her staff, that is connected directly or indirectly to the performance of the member's duties, is deemed to be a gift or benefit to that member.

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 under one or more of the exceptions listed below.

Each of the following is recognized as an exception:

- (a) compensation authorized by law;
- (b) a gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
- (c) a political contribution otherwise authorized reported, as required by law, in the case of a member running for office;
- (d) services provided without compensation by a person volunteering his or her time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or event where the member is speaking or attending in an official capacity;

- (g) food and beverages consumed at a banquet, reception or similar event, if:
 - (i) attendance by the member is for a legitimate municipal purpose;
 - (ii) the person extending the invitation, or a representative of the organization holding the event, is in attendance; and
 - (iii) the value is reasonable;
- (h) communications to the office of a member, including subscriptions to newspapers and periodicals; and
- (i) a sponsorship or donation for a community event organized or run by a member, or a third party on behalf of a member, subject to the limitations set out in any applicable municipal policy.

Except for exception (c) (political contributions allowable by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer. In this provision, a lobbyist is an individual, organization or business who or that:

- (i) lobbies, or causes the lobbying of, any public office holder of the municipality, the municipal council or corporation, or a local board;
- (ii) the member knows is attempting or intending to lobby the member or any of the public persons or bodies listed in paragraph (a); or
- (iii) is maintaining an active lobbyist registration with the municipality, whether or not with respect to any specific or current subject matter.

In the case of any of the recognized exceptions (b), (e), (f), (h) and (i), if the value of the gift or benefit exceeds \$300.00, or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$300.00, the member shall file, within 30 days of receipt of the gift or benefit, or of reaching the annual limit, a disclosure statement with the Municipal Clerk.

The disclosure statement must set out:

1. the nature of every gift or benefit received;
2. its source and date of receipt;
3. the circumstances under which it was given and received;
4. its estimated value;
5. what the recipient intends to do with any gift; and
6. whether any gift will at some point be provided to the municipality.

Every disclosure statement filed under this Code shall be made a public record.

Upon receiving a disclosure statement, the Municipal Clerk shall forward the statement to the Integrity Commissioner who shall examine it to ascertain whether the receipt of the gift or benefit might, in his or her opinion, constitute a contravention of this Code or create a conflict between a private interest and the public duty or responsibilities of the member. In the event that the Integrity Commissioner makes such a determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt of any gift or benefit 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, forfeit the gift or remit the value of any gift or benefit already consumed, to the Municipality.

Except in the case of exceptions (a), (c), (f) and (i), no member shall accept a gift or benefit worth in excess of \$500.00, or gifts or benefits from one source during a calendar year which together are worth in excess of \$500.00.

10. CONFIDENTIAL INFORMATION

10.1 No member shall,

- (a) disclose, release or publish by any means to any person or to the public any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
- (b) use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body;
- (c) disclose a matter, the substance of the matter, and information pertaining to a matter, that has been debated or discussed at a meeting closed to the public, and shall be maintained as confidential, unless authorized by the Council or legislation to be released, generally or subject to conditions, and such are complied with;
- (d) disclose the content of any matter referred to in the preceding paragraph or the subject-matter of deliberations at a meeting closed to the public meeting, unless such matter has been lawfully and knowingly discussed by Council at a meeting that is open to the public or where Council authorizes the release the information to the public;

- (e) without lawful authority, disclose, or make personal use of, any of the following types of confidential information:
 - (i) information concerning litigation, negotiation or personnel matters,
 - (ii) information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence),
 - (iii) price schedules in any contract, tender or proposal document while such remains a confidential document,
 - (iv) information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*, or
 - (v) any other information or statistical data required by law not to be released; and
- (f) obtain access, or attempt to gain access, to confidential information in the custody of the Municipality except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by Council or otherwise by law.

11. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES

11.1 Subject to 11.2 below, no member shall,

- (a) use, or permit the use of, Municipal land, facilities, equipment, supplies, services, staff or other resource, including any municipally-owned information, website, transportation delivery service or funds allocated for the member expenses of his or her office, for any purpose or activity other than the lawful business of the Municipality; or
- (b) seek or acquire any personal financial gain from the use or sale of confidential information, or of any municipally-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copy righted, of which property remains exclusively that of the Municipality.

11.2 Incidental and occasional personal, non-commercial use of email/internet and a personal communication device (i.e. Blackberry) is permitted.

12. CONDUCT OF ELECTION CAMPAIGN

12.1 Every member shall comply with all applicable requirements of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched.

12.2 No member shall,

- (a) use confidential information, facilities, equipment, supplies, services or other resources of the Municipality, including any member newsletter or website linked through the Municipality's website, for any election campaign or campaign-related activity;
- (b) undertake campaign-related activities on municipal property except as otherwise provided for in Policy F5 – Political Activities; or
- (c) use the services of any person for election-related purposes during hours in which that person receives any compensation from the Municipality.

13. NO IMPROPER USE OF INFLUENCE

13.1 No member shall,

- (a) use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes;
- (b) use his or her office or position to influence or attempt to influence the decision of any other person, for the member's private advantage or that of the member's parent, child, spouse, staff, friend, or associates, business or otherwise;
- (c) attempt to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties; or
- (d) hold out the prospect or promise of future advantage through the member's supposed influence within Council, in return for any action or inaction.

13.2 For the purposes of this provision, "private advantage" does not include a matter that,

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

13.3 Section 13.1 does not prevent a member from requesting that Council grant a lawful exemption from a Municipal policy not including this Council Code of Conduct.

14. NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE

14.1 Every member must respect the integrity of the Council Code of Conduct and inquiries and investigations conducted under it, and shall cooperate in every way possible in securing compliance with its application and enforcement.

14.2 No member shall obstruct the Integrity Commissioner, his or her designate, or any other Municipal official involved in applying or furthering the objectives or requirements of the Council Code of Conduct, in the carrying out of such responsibilities, or pursuing any such objective.

14.3 No member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person under the Council Code of Conduct.

15. STATUTES REGULATING THE CONDUCT OF COUNCILLORS

15.1 Members acknowledge that in addition to this Council Code of Conduct, the following legislation and Clarington Policies also govern the conduct of members:

- (a) *Municipal Act, 2001;*
- (b) *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50;*
- (c) *Municipal Elections Act, 1996;*
- (d) *Municipal Freedom of Information and Protection of Privacy Act;*
- (e) *Occupational Health and Safety Act, R.S.O. 1990, c. 0.1;*
- (f) *Human Rights Code, R.S.O. 1990, c. H.19;* and
- (g) *Criminal Code, R.S.C. 1985, c. C-46.*
- (h) Clarington Policy F-110 Use of Corporate Resources for Election Purposes
- (i) Clarington Policy F5 Political Activities

15.2 A member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* or the *Municipal Elections Act, 1996*, or being found to have failed to comply with the *Municipal Conflict of Interest Act*, whether or not the conduct in question involves a contravention of this Council Code of Conduct.

15.3 In the case of any inconsistency between this Council Code of Conduct and a federal or provincial statute or regulation, the statute or regulation shall prevail.

15.4 All references to any statute, regulation, by-law or legislation shall be deemed to be a reference to the statute, regulation, by-law or legislation as amended, consolidated, replaced or superseded.

16. INTEGRITY COMMISSIONER

16.1 The Integrity Commissioner shall be responsible for performing in an independent manner the following functions as assigned by the Municipality with respect to:

- (a) the application of the Council Code of Conduct; and
- (b) the application of any procedures, rules and policies of the Municipality governing the ethical behaviour of members;

and, without limiting the generality of the foregoing, shall be entitled to undertake investigations or not undertake investigations in accordance with provisions of Part V.1 of the *Municipal Act, 2001*.

16.2 In addition, to the responsibilities set out in Section 16.1, the Integrity Commissioner shall also provide:

- (a) information to Council as to members' obligations under the Council Code of Conduct and the Complaint Procedure;
- (b) advice to individual members regarding specific situations as they relate to the application of the Council Code of Conduct;
- (c) advice to Council on other policies and procedures that relate to the ethical behavior of members;
- (d) information to the public regarding the Council Code of Conduct and the obligations of members under the Council Code of Conduct; and
- (e) an annual report to Council on the activities of the Integrity Commissioner.

16.3 Without limiting the generality of Section 16.1, the Integrity Commissioner may determine, on a case-by-case basis, whether to undertake an investigation or not to undertake an investigation. The Integrity Commissioner shall be entitled to summarily dismiss a complaint filed in accordance with the Complaint Procedure on the basis that it constitutes in his or her opinion, an abuse of process or is frivolous or vexatious.

16.4 Without limiting the generality of Section 16, all determinations of the Integrity Commissioner under the Council Code of Conduct shall be made in his or her own absolute discretion and shall be final and binding.

16.5 A request by a member of Council, or of a local board for advice from the Integrity Commissioner shall be made in writing.

16.6 Where the Integrity Commissioner provides advice to a member of Council or local board, the advice shall be in writing.

16.7 Where the Integrity Commissioner provides educational information to of the public about the Municipality's Council Code of Conduct, the Integrity Commissioner may summarize advice he or she has provided, but shall not disclose confidential information that could identify a person concerned.

17. COMPLAINTS

17.1 All complaints pursuant to the Council Code of Conduct shall be filed in accordance with the Complaints Procedure in Appendix "A" attached hereto.

18. PENALTIES

18.1 Council may, where it has received a report from its Integrity Commissioner that there has been a violation of the Council Code of Conduct, impose one of the following penalties on a member who has been found to be in contravention of the Council Code of Conduct:

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

19. ANNUAL REPORTS

19.1 The Integrity Commissioner shall submit an annual report to Council which will include information on the nature and volume of activity for the past year and provide examples, while maintaining the anonymity of the persons involved, in respect of advice provided and the nature of complaints received and for which a response was issued.

19.2 The annual report of the Integrity Commissioner shall be provided to Council for information purposes. The report is a public document.

The Corporation of the Municipality of Clarington

By-law 2019-XXX

Being a by-law to appoint an Integrity Commissioner
for the Municipality of Clarington.

Whereas Section 8 of the *Municipal Act, 2001*, S.O. c. 25 provides, in part, that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising authority;

And Whereas Sections 223.4 to 223.8 of the *Municipal Act, 2001* provide that an Integrity Commissioner has certain powers and protections during investigations;

And Whereas Section 223.3 of the *Municipal Act, 2001* has been amended to expand the authority, powers and duties of the Integrity commissioner;

Now therefore the Council of the Corporation of the Municipality of Clarington hereby authorizes the following:

- 1) That the Mayor and Clerk be authorized to execute, on behalf of the Municipality of Clarington, an amending agreement with Fasken Martineau regarding the appointment of Guy W. Giorno as Clarington's Integrity Commissioner and the provision of the required services for Clarington's Integrity Commissioner, as Attachment 1 to this by-law, forming part of this by-law.

Passed this 27th day of February, 2019.

Adrian Foster, Mayor

C. Anne Greentree, Municipal Clerk

AMENDING AGREEMENT FOR CONSULTING/PROFESSIONAL SERVICES

BETWEEN:

THE MUNICIPALITY OF CLARINGTON

(The "Municipality")

OF THE FIRST PART

- and -

FASKIN MARTINEAU DUMOULIN LLP

(The "Consultant/Company")

OF THE SECOND PART

WHEREAS the Municipality and the Consultant entered into a consulting agreement, dated April 13, 2017 for the Consultant to provide the Municipality services for an integrity commissioner (Consulting Agreement).

AND WHEREAS the Municipality and the Consultant have agreed to enter into this amending agreement for consulting professional services to accommodate for changes to integrity commissioner services by virtue of the passage of Bill 68, the Modernizing Ontario's Municipal Legislation Act, 2017 (Amending Agreement).

AND WHEREAS upon the parties signing this Amending Agreement for consulting professional services, this Amending Agreement and its terms shall take effect on March 1, 2019.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the rents, covenants and mutual promises contained herein, and the payment of two dollars (\$2.00) by each party to each party, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Appendix D of the Consulting Agreement under 1.2.2 Scope of Work of the Integrity Commissioner is hereby amended by deleting the following:

Section 223.3 of the Municipal Act, 2001 outlines the legislated role of an Integrity Commissioner. It identifies that the role of an Integrity Commissioner is to perform in an independent manner those functions assigned by a municipality with respect to:

**"(a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;
(b) the application of any procedures, rules and policies of the municipality and local boards governing the ethical behavior of members of council and of local boards or of either of them; or
(c) both of clauses (a) and (b)."**

And replacing it with:

The Integrity Commissioner shall have the following responsibilities outlined under section 223.3 of the Municipal Act:

- (1) 1. The application of the code of conduct for members of council and the code of conduct for members of local boards.
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct

for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

Request for advice shall be in writing

(2.1) A request by a member of council or of a local board for advice from the Commissioner under paragraph 4, 5 or 6 of subsection (1) shall be made in writing.

Advice shall be in writing

(2.2) If the Commissioner provides advice to a member of council or of a local board under paragraph 4, 5 or 6 of subsection (1), the advice shall be in writing.

Content of educational information

(2.3) If the Commissioner provides educational information to the public under paragraph 7 of subsection (1), the Commissioner may summarize advice he or she has provided but shall not disclose confidential information that could identify a person concerned.

2. The Consulting Agreement is hereby further amended to include the following clause:

The Municipality of Clarington shall indemnify and save harmless the Integrity Commissioner or any person acting under the instructions of the Integrity Commissioner for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a duty or authority under Part V.1 of the *Municipal Act* or a by-law passed under it or an alleged neglect or default in the performance in good faith of the duty or authority.

3. The Consulting Agreement is hereby further amended in Article 4 to include the following clause:

The parties confirm that a disclosure by Giorno in accordance with Part V.1 of the *Municipal Act* does not contravene Article 4. More generally, Article 4 shall not limit the exercise of the Integrity Commissioner's authority under Part V.1 of the *Municipal Act*.

4. The Consulting Agreement is hereby further amended to include the following:

- a) **The parties confirm that the services covered by this Agreement, except as where lawfully delegated under subsection 223.3(3) of the *Municipal Act*, will be provided by Consultant / Company through Giorno in his capacity as a lawyer and other professionals within the firm working under his supervision.**
- b) **Consultant / Company and Giorno will, inside the law firm, create a "confidentiality wall" so that only those professionals within Consultant / Company working on the Municipality's Integrity Commissioner files have access to such information related to the Municipality.**
- c) **The Municipality understands, agrees and confirms that Giorno is not the Municipality's lawyer and Consultant / Company is not the Municipality's law firm.**
- d) **The Municipality confirms, agrees and consents that the appointment of Giorno and this Agreement with the Consultant / Company do not prohibit Giorno from acting as Integrity Commissioner for other municipalities both inside and outside the Municipality of Clarington.**
- e) **The Municipality understands that an Integrity Commissioner must exercise functions independently of the Municipality and of Council. Giorno is appointed and the Consultant / Company is engaged only to provide Integrity Commissioner services under the *Municipal Act*, the *Municipal Conflict of Interest Act* and the Code of Conduct. The Municipality understands and accepts the Giorno and the Consultant / Company do not represent the Municipality or the Council, and Giorno and the Consultant / Company do not**

represent and do not advance the interests of the Municipality and the Council.

- f) **The Municipality confirms, agrees and consents that the appointment of Giorno and this Agreement with the Consultant / Company do not prohibit the Consultant / Company from accepting from another client a mandate that is adverse to the interests of the Municipality, provided that all of the following conditions are satisfied: Giorno does not act in the other mandate; no one else providing services under this Agreement acts in the other mandate; the other mandate is unrelated to Integrity Commissioner services; and the Consultant / Company possesses no confidential information obtained in the course of providing services under this Agreement that is relevant to the other mandate.**
- g) **A mandate that satisfies the conditions in paragraph (f), above, does not constitute a conflict of interest, either actual or potential, and does not require notice to the Municipality or provide cause to terminate the appointment or this Agreement.**

5. The Consulting Agreement is hereby further amended by deleting Clause 1.4 (Intellectual Property) and replacing it with the following:

Giorno's final reports delivered to Council (not drafts of them) are the only Deliverables contemplated by this Agreement. The Municipality shall make Giorno's reports easily accessible and publicly available on its Website. The parties agree that once delivered to Council, the reports shall be in the public domain.

6. The Consulting Agreement is hereby further amended by amending Clause 1.12 (Assignment and Subcontracting) to add the following:

A delegation of powers or duties by Giorno under the *Municipal Act* does not constitute an assignment of this Agreement.

If due to recusal to avoid a perceived conflict of interest or for any other reason Giorno delegates powers or duties to a person who does not belong to Company/Consultant then Giorno shall make best efforts to identify a delegate who will agree to discharge the powers or duties for the Special Projects Hourly Fee set out in section 3.04 of this Agreement.

For greater certainty, for a delegation under subsection 223.3(3) of the Municipal Act the Municipality's approval is not required, but the Integrity Commissioner will provide a courtesy notification to the Municipal Clerk should such a delegation be put in place.

7. The Consulting Agreement is hereby further amended by deleting Clause 1.18 (Publication).

8. The Consulting Agreement is hereby further amended by amending Section 1.31 (Reports) to read as follows:

All reports produced for the Municipality by a Consultant/Company must be provided in an accessible format. Accessible format indicates the document is in compliance with the *Accessibility for Ontarians with Disabilities Act* (AODA), *Web Content Accessibility Guidelines* (WCAG 2.0) Level AA and will have passed all the accessibility checkers.

9. In all instances where this agreement references the "integrity commissioner", it shall be read hand in hand to refer to as the "Consultant/Company".

10. All other terms of the Consulting Agreement shall remain in full force.

11. This agreement shall come into effect on March 1, 2019.

DATED THIS ____ DAY OF _____, 2019.

THE MUNICIPALITY OF CLARINGTON

Adrian Foster, Mayor

C. Anne Greentree, Municipal Clerk

FASKIN MARTINEAU DUMOULIN LLP

Corporate Policy



POLICY TYPE:	Working Conditions and Programs
SUBSECTION:	Working Conditions
POLICY TITLE:	Council-Staff Relations
POLICY #:	NEW
POLICY APPROVED BY:	Council
EFFECTIVE DATE:	TBD-2019
REVISED:	
APPLICABLE TO:	All Members of Council and staff

1. Purpose Statement

This policy provides guidance on how the Municipality of Clarington will promote a respectful, tolerant and harassment-free relationship and workplace between Members of Council and the officers and employees of the corporation.

2. Scope

In accordance with Section 270 of the *Municipal Act, 2001*, this policy applies to all employees and Members of Council.

3. Definitions

Member is a Member of the Municipality of Clarington's Council.

4. Policies

Guidance

Members acknowledge that only Council, as a whole, has the capacity to direct employees.

Members will direct any concerns, respecting employees, through the Chief Administrative Officer.

Corporate Policy



The relationship between Members of Council and the officers and employees of the corporation is guided by the following:

1. Code of Conduct for Members of Council

The code of Conduct for Members of Council establishes the ethical behavior expected of Members. The Code of Conduct for Members of Council states as follows:

Section 7 Conduct Respecting Others

- 7.1 Every member has the duty and responsibility to treat all members of the public, other members of Council, and all staff appropriately and without abuse, bullying or intimidation, and to ensure that the work environment is free from discrimination and harassment.
- 7.2 No member shall use indecent, abusive or insulting-words or expressions toward any other member, any member of staff or any member of the public.
- 7.3 No member shall engage in Harassment of anyone. The Human Rights Code defines Harassment as “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”
- 7.4 No member shall engage in Discrimination against anyone on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability (the list of prohibited grounds of discrimination in the Human Rights Code).
- 7.5 Sections 7.3 and 7.4 shall be interpreted in a manner consistent with the Human Rights Code.

Corporate Policy



7.6 The following examples of Harassment are illustrative only and not exhaustive:

(a) Examples Harassment in the workplace include:

- Physically abusive or aggressive behaviour such as pushing, hitting, finger pointing or standing close to the victim in an aggressive manner
- Using intimidating or disrespectful body language
- Verbally abusive behaviour such as yelling, insults, intimidating comments and name calling
- Spreading malicious rumours
- Excluding or ignoring the victim
- Making little or no eye contact with the victim and refusing to engage in common pleasantries
- Sabotaging the victim's work or claiming credit for it
- Repeatedly blaming another for mistakes
- Making false allegations in memos or other documents
- Undermining the victim's efforts by setting impossible goals and deadlines and impeding an employee's efforts at promotions or transfers
- Persistent excessive and unjustified criticism and constant scrutiny
- Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome
- Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome
- Reprisal or threat of reprisal by a person in a position to grant or deny a benefit to a person who has rejected his or her sexual proposition
- Unnecessary or unwanted physical contact, ranging from touching, patting or pinching to physical assault
- Leering or other suggestive gestures

Corporate Policy



- Displaying, sending or communicating electronically or by any other means pornographic pictures or other offensive, sexually explicit material
 - Practical jokes of a sexual nature, which cause awkwardness or embarrassment
 - Compromising invitations
 - Unwelcome remarks, jokes or insults about a person's physical appearance, attire, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
 - The displaying of racist, derogatory or otherwise offensive material
 - Insulting gestures or practical jokes, or other action that causes embarrassment, based on grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
 - A refusal to converse or work with an individual because of his or her race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
- (b) The following examples, relative to employees who report directly to Council, do not constitute Harassment, providing they are undertaken without malice or intent to intimidate or undermine:
- Performance reviews
 - Work assignments
 - Work evaluation
 - Disciplinary measures taken by the employer for valid reasons
 - Reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment
- (d)

Corporate Policy



- 7.7 In the course of investigating a complaint that alleges Harassment or Discrimination, the Integrity Commissioner may make interim reports to Council, including interim reports that recommend measures to protect the complainant or to maintain the integrity of the investigation.

Section 8 - Conduct Respecting Staff

- 8.1 Every member acknowledges that staff operate under the direction of the senior municipal administration, and in accordance with the decisions of Council, and are required to serve the Municipality as a whole and not the needs or desires of any individual member.
- 8.2 Every member shall:
- (a) be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any member or faction of the Council; and
 - (b) show respect for staff, and for their professional capacities and responsibilities.

Corporate Policy



- 8.3 No member shall,
- (a) maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff;
 - (b) compel any member of staff to engage in partisan political activities, or subject any member of staff to threat or discrimination for refusing to engage in any such activity; or
 - (c) use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that staff person's duties, including the duty to disclose improper activity.

2. Employee Code of Ethics

The Employee Code of Ethics is founded on the notion of ensuring integrity in public service through the recognition and promotion of the fundamental principles of transparency, impartiality, respect and accountability, including interactions with Members of Council. As such, these general principles are detailed in the prevailing Employee Code of Ethics Policy.

3. Harassment Policy

The Corporation of the Municipality of Clarington is dedicated to providing a healthy and safe work environment. Acts of workplace harassment by staff, volunteers, visitors, contractors or vendors will not be tolerated. The Municipality of Clarington has a zero tolerance policy regarding workplace harassment.

The Harassment Policy provides a standard of conduct for employees of the Corporation in the carrying out of their work assignments and their relationships with the public, elected officials and each other. Any complaints related to Members of Council and employees must follow the process outlined in the prevailing Harassment Policy, which indicates that matter will be addressed through the Council Code of Conduct Complaint Procedure and the complaint submitted to the Integrity Commissioner. The Integrity Commissioner will report to Council in accordance with governing protocol of that Office.

Corporate Policy



4. Accountability and Transparent Policy

The Accountability and Transparent Policy states that:

The Council of the Municipality acknowledges that it is responsible to provide good government for its stakeholders in an accountable and transparent manner by:

- Encouraging public access and participation to ensure that decision making is responsive to the needs of its constituents and receptive to their opinions;
- Delivering high quality services to our citizens; and
- Promoting the efficient use of public resources.

Accountability, transparency and openness are standards of good government that enhance public trust. They are achieved through the Municipality adopting measures ensuring, to the best of its ability, that all activities and services are undertaken utilizing a process that is open and accessible to its stakeholders.

5. Procedural By-law

The Procedural By-law establishes rules, procedure and conduct within Council and Committee meetings. Specifically, Section 10.1.1 states:

No member shall use offensive words or unparliamentary language or speak disrespectfully against the Council, against any Member, or against any officer or employee of the Municipality.

Responsibilities

Members of Council and officers and employees of the Corporation are required to adhere to this policy and its governing provisions.

Corporate Policy



POLICY TYPE:	Benefits
SUBSECTION:	Sick/Maternity Leave
POLICY TITLE:	Pregnancy or Parental Leaves for Members of Council
POLICY #:	NEW
POLICY APPROVED BY:	Council
EFFECTIVE DATE:	TBD-2019
REVISED:	
APPLICABLE TO:	All Members of Council

1. Policy Statement

The Municipality of Clarington recognizes that a Member of Council may need to take leave for the Member's pregnancy, the birth of the Member's child or the adoption of a child by the Member, as required by, and in accordance with Subsection 270(1) of the *Municipal Act, 2001*.

2. Definitions

Member means a sitting Member of the Council for the duration of their term of office.

Pregnancy/Parental Leave is an absence of 20 consecutive weeks or less, as a result of Member's pregnancy, the birth of a Member's child or the adoption of a child by the Member in accordance with Subsection 259(1.1) of the *Municipal Act, 2001*.

3. Purpose

This policy provides guidance on how the Municipality addresses a Member's pregnancy or parental leave in a manner that respects a Member's rights as an individual and their statutory roles as an elected representative.

Corporate Policy



4. Applicability

This policy shall apply to a Member of Council during their pregnancy/parental leave. Any limitations or benefits shall only apply during the time of leave when the Member is a sitting Member of Council. For instance, if a 20 week leave were to begin while the Member was in office and end after the Member's term ends, this policy shall only apply during the time that the Member was in office.

5. Policies

5.1 Principles

The Council of the Municipality of Clarington supports a Member's right to Pregnancy/Parental leave in accordance with the following rules and principles:

1. A Member is elected to represent the interests of their constituents.
2. A Member's Pregnancy/Parental Leave does not require Council approval and their office cannot be declared vacant as a result of the Pregnancy/Parental Leave.
3. A Member's Pregnancy/Parental Leave is guaranteed by Subsection 259(1.1) of the *Municipal Act, 2001*.

5.2 Communications & Access

1. A Member shall be entitled to continue to receive communication from the Municipality during a Pregnancy/Parental Leave, in accordance with the wishes of the Member.
2. Legislative and administrative matters that require action by the Member during their pregnancy/parental leave shall be addressed in a manner that is consistent with the Member's wishes.
3. A Member shall continue to have access to Municipal facilities during the Member's Pregnancy/Parental Leave.

Corporate Policy



5.3 Members' Rights & Quorum

1. A Member on pregnancy/parental leave shall reserve the right to exercise their delegated authority and to participate as an active Member, at any time during their Pregnancy/Parental Leave.
2. The absence of a Member on pregnancy/parental leave shall not affect quorum because the Member always retains the right to return from leave (i.e. quorum, as calculated in the Procedural By-law, remains the same).

5.4 Benefits

1. A Member on Pregnancy/Parental Leave shall continue to receive remuneration with all the applicable statutory deductions as well as the existing OMERS contributions.
2. A Member on Pregnancy/Parental Leave shall continue to receive benefits afforded to all Members of Council.
3. When a member is on Pregnancy/Parental Leave, the regular travel allowance is discontinued. However, should a Member incur travel expenses, they are eligible to submit a travel expense claim in accordance with Section C.1.5 of the Travel Allowance & Reimbursement Guidelines as part of the Council Compensation By-law (2011-005).
4. Where the Member on Pregnancy/Parental Leave is a Regional representative (i.e. a Regional Councillor or Mayor), the provisions contained in the Region of Durham's Policy for Pregnancy and Parental Leaves for Members of Regional Council shall be applicable, however, the administrative process for remuneration shall remain unchanged.

Corporate Policy



5.5 Notice

1. In advance of a Member taking a Pregnancy/Parental Leave, the Member shall provide written notice to the Municipal Clerk, the Mayor/Designate, and Human Resources, outlining the expected duration of the leave including a potential commencement date and return date. Such notice is to be submitted using the prevailing Pregnancy/Parental Leave Notice Request Form (available from Human Resources).
2. The Member shall inform same of any changes regarding their return date.
3. It is understood that, under emergency circumstance, a Member may not be able to submit the appropriate notice before commencing a Pregnancy/Parental Leave. Each Member shall, nonetheless, endeavour to provide the appropriate notice in advance of any leave or as soon as possible after commencing the leave.

5.6 Temporary Appointments

1. Council may make temporary appointments to fill any vacancies of the Member to Committees, Boards, etc. or other meetings or activities of the Member.
2. Temporary appointments on Durham Region's Council, may be made in accordance with Sections 267 and 268 of the *Municipal Act*.
3. Notwithstanding the above, at any point in time during the Pregnancy/Parental Leave, the Member on pregnancy/parental leave may provide written notice to the Municipal Clerk and the Mayor/Designate of their intent to lift any of the Council approved temporary appointments as a result of the Member returning to exercise their statutory role.

Corporate Policy



6. Responsibilities

1. Members of Council and applicable municipal staff are responsible for adhering to this policy.
2. At the direction of the CAO, the Municipal Clerk or the Director of Corporate Services are delegated the authority to make administrative changes to this policy that may be required from time to time due to legislative changes or, if the amendments do not change the intent of the policy.

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The Corporation of the Municipality of Clarington
By-law 2019-xxx

Being a by-law to amend the Procedural By-law, 2015-029.

Whereas, Bill 68, the *Modernizing Ontario's Municipal Legislation Act*, added Section 5(2.1) to the *Municipal Conflict of Interest Act*, regarding the consideration of penalty for the member during a meeting;

And whereas current Clarington's Procedural By-law, 2015-029, would be in conflict with the new provision;

Now therefore be it enacted that By-law 2015-029, Clarington's Procedural By-law, be amended as follows:

1. That the following new section be added:

Section 7.2.1.1

Notwithstanding Sub-section 7.2.1, if the matter under consideration at a meeting, or a part of a meeting, is to consider whether to suspend the remuneration paid to the member under subsection 223.4 (5) or (6) of the *Municipal Act, 2001*, the member may take part in the discussion of the matter, including making submissions to council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting. However, the member is not permitted to vote on any question in respect of the matter. Additionally, in the case of a meeting that is not open to the public, the member may attend the meeting or part of the meeting during which the matter is under consideration.

2. That this by-law shall take effect on the date of passing.

Passed in Open Council this XX day of February, 2019.

Adrian Foster, Mayor

C. Anne Greentree, Municipal Clerk