



To: Mayor and Council
From: Kerry Costello, Town Clerk
Date: March 22, 2023
Committee of the Whole Date: March 27, 2023
Title: Updates to the Code of Conduct for Members of Council and Local Boards

☒ For Direction
☐ For Information
☐ For Adoption
☐ Attachment

Recommendation: *THAT Council of the Town of Smiths Falls review the attached Code of Conduct for Members of Council and Local Boards, as amended;
AND THAT Council formally adopt the updated Code of Conduct for Members of Council and Local Boards at their next meeting of Council.*

Purpose: To adopt an updated Code of Conduct for Members of Council and Local Boards in accordance with Bill 68, Modernizing Ontario's Municipal Legislation Act.

Background: In September, 2018, Council of the Corporation of the Town of Smiths Falls adopted a Code of Conduct for Members of Council and Local Boards. The Town has historically had a Code of Conduct since 2004. Bill 68 however, legislated mandatory codes of conduct for members of council and local boards (as they had previously been discretionary).

A code of conduct aims to ensure public trust and confidence in the Municipality's decision making and operations. The public should expect the highest standards of conduct from the members they elect to local government, as well as members serving on Boards and Committees. In turn, adherence to these standards will protect and maintain the Municipality's reputation and the integrity of its decision-making process. As a matter of due diligence, the Clerk's of Lanark County met with our Integrity Commissioner, Tony Fleming in February 2023 to review the current Code of Conduct and discuss any updates the group felt appropriate.

On March 6th, 2023 Council authorized execution of an agreement with Cunningham, Swan, Carty Little & Bonham respecting the provision of services of an Integrity Commissioner.

Updates include (red indicates new information/amendment):

10.5: COMMUNICATIONS AND MEDIA RELATIONS

If Council has taken a position in a Local Planning Appeals Tribunal, or other tribunal or court, and instructed the Municipal Solicitor to appear at a hearing in support of such position, no Member who disagrees with such position shall give evidence at such hearing or otherwise work against the will of Council expressed in its direction to the Municipal Solicitor in such matter. **For greater clarity, this provision shall not prevent a member from participating in a hearing or other**

proceeding where the subject matter is personal to the Member or involves the property of the Member.

17.3 ENFORCEMENT AND SANCTIONS

The *Municipal Act* authorizes Council to impose one ~~or more~~ of the penalties listed below, if so desired, on a Member that has contravened this Code of Conduct:

- a) A reprimand; or
- b) Suspension of the remuneration paid to the Member in respect to his or her services as a Member of Council, local Board or Committee, as the case may be, for a period of up to 90 days.

APPENDIX I: COMPLAINT PROTOCOL FOR COUNCIL AND LOCAL BOARD CODE OF CONDUCT / PART A: Informal Complaint Procedure ~NEW ADDITIONS~

Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying behavior or an activity that they believe violates the Code of Conduct.

Nothing in this section is meant to limit the ability of the Head of Council to participate in or facilitate informal resolution.

Nothing in this section is meant to limit the ability of the Head of Council to engage in discussions with or to provide guidance to Members of Council about their behaviour or compliance with the Code of Conduct. This Code of Conduct expressly recognizes that the Head of Council has the discretion to mediate disputes among Members and has the authority to attempt to manage the behaviour of Members that the Head of Council feels is inappropriate or may be disruptive to effective Council meetings, Council relations or Council/staff relations.

At the Head of Council's discretion, they may attempt to facilitate resolutions to the inappropriate behaviour of Members outside of the informal resolution process described above.

Nothing in this section is meant to limit the ability of any Member of Council to attempt to facilitate resolutions to the inappropriate behaviour of other Members of Council, even in the absence of the Head of Council. Members may also seek to facilitate the resolution of inappropriate behaviour of the Head of Council using the informal resolution process, or other less formal resolution processes.

APPENDIX I: COMPLAINT PROTOCOL FOR COUNCIL AND LOCAL BOARD CODE OF CONDUCT / Part B: Formal Complaint Procedure ~NEW ADDITIONS~

The report of the Integrity Commissioner shall be placed on an open session agenda no later than 30 days after being submitted.

The report of the Integrity Commissioner shall be published by posting the report on the Municipal website and making a copy available to all Members of Council and the Members of the Board or Committee, as applicable.

Reports placed on the website shall remain on the website for a minimum of 5 years from the date of the report.

Where Council imposes a penalty at the conclusion of an investigation, the penalty shall be implemented immediately.

Where Council imposes a sanction at the conclusion of an investigation that requires some action of the Member who is the subject of the complaint, Council shall include a deadline for the member to complete the sanction. Unless expressly directed by Council, the sanction shall be completed or undertaken by the Member no later than 6 months from the date the sanction was imposed. Staff shall report back to Council upon completion of the sanction or the 6 month deadline to inform Council as to the status of the sanction.

Also of note is Bill 5-Stopping Harassment and Abuse by Local Leaders Act. This Bill would require the Code of Conduct for Members of Council and Local Boards to include a requirement to comply with workplace violence and harassment policies and permit municipalities and local boards to direct the Integrity Commissioner to apply to the court to vacate a member's seat if the Commissioner's inquiry determines that the member has contravened this requirement.

This Bill was circulated to the Town's Integrity Commissioner, Tony Fleming, to advise if the Town's Code of Conduct should be amended. At this time, we have been advised that the Town has most of what this Bill requires currently - a provision that regarding compliance with the with the Ontario Occupational Health and Safety Act, as well as a provision under 6.0 GERNERAL CONDUCT that denotes that every Member has the duty and responsibility to treat members of the public, staff and each other in a respectful manner, without abuse, bullying, harassment or intimidation. There is also a separate section that requires compliance with all policies of the Town, which he suspects would include our violence and harassment policies. T Fleming also noted that there is no authority to apply to court to have a member removed from their seat for anything other than the Municipal Conflict of Interest Act, so the Town should await the decision of the Province on the Bill. T Fleming recommended holding off on any amendments at this time until/if the Bill passes (currently received First Reading in the Legislative Assembly of Ontario on August 10th, 2022).

Analysis and Options: That Council review and provide feedback so that formal adoption of the bylaw can occur.

Budget/Financial Implications: N/A

Link to Strategic Plan: N/A

Existing Policy: Municipal Act S.O. 2001, c. 25, Sec 223

By-law 9973-2018 being a Bylaw to Adopt a Code of Conduct for Members of Council and Local Boards

Consultations: Tony Fleming, Integrity Commissioner
All Lanark County Clerks

Attachments: Amended Code of Conduct for Members of Council and Local Boards

Respectfully Submitted:

Approved for agenda by CAO:

Kerry Costello
Town Clerk

Malcolm Morris, CMO
Chief Administrative Officer