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THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NUMBER 2022-05

A By-law to adopt a Code of Conduct for Members for the Town of Lincoln, and to repeal By-Law No. 2017-83.

Whereas subsection 223.2(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes the council of a municipality to establish codes of conduct for Members and of local boards; and

Whereas the establishment of a Code of Conduct for Members is consistent with the principles of transparent and accountable government; and

Whereas the elected officials of the Town of Lincoln have and continue to recognize their obligation to serve their constituents in a conscientious and diligent manner recognizing that as leaders of the community, they are held to a higher standard of behaviour and conduct; and

Whereas ethics and integrity are at the core of public confidence in government and in the political process, and elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real, and the need to uphold both the letter and the spirit of the law including policies adopted by Council; and

Whereas a Code of Conduct ensures that Members share a common basis and understanding for acceptable conduct extending beyond the legislative provisions governing the conduct of Members as set out in the *Municipal Act, 2001*; *the Municipal Conflict of Interest Act*; *the Municipal Elections Act, 1996*; and *the Municipal Freedom of Information and Protection of Privacy Act*.

Now therefore, the Council of the Corporation of the Town of Lincoln hereby enacts as follows:

1. That the Code of Conduct for Council, more particularly described in Schedule "A" attached hereto and forming part of this by-law.
2. That By-law No. 2017-83 be repealed.
3. That this By-law shall come into force and take effect on the date of its final passing.

**PASSED AND ENACTED** on the 14th day of February, 2022.

*Original signed by*  
\_\_\_\_\_  
MAYOR: SANDRA EASTON

*Original signed by*  
\_\_\_\_\_  
CLERK: JULIE KIRKELOS

## **SCHEDULE “A” TO BY-LAW NO. 2022-05**

### **CODE OF CONDUCT FOR THE COUNCIL OF THE TOWN OF LINCOLN**

#### **APPLICATION**

This Code of Conduct applies to the Mayor and all Members of Council (“Members”).

#### **FRAMEWORK AND INTERPRETATION**

The Code of Conduct is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document, the Code of Conduct will be brought forward for review periodically and during each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members.

Commentary and examples used in this Code of Conduct are illustrative and not exhaustive. From time-to-time additional commentary and examples may be added to this document and supplementary materials may also be produced by the Integrity Commissioner as deemed appropriate.

Where a Member discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that he or she is asked to investigate a complaint.

Members seeking clarification who are provided advice in a general way, cannot rely on advice given by the Integrity Commissioner to the same extent as advice given in respect of specific facts. Advice that is general in nature is subject to change when applied to specific facts that may not have been known at the time the general advice was provided.

Members seeking clarification of any part of this Code should consult with the Integrity Commissioner.

The Municipal Act, 2001 is the primary piece of legislation governing municipalities however there are other statutes that govern the conduct of elected municipal officials. It is intended that the Code of Conduct operate together with and as a supplement to the following legislation:

- Municipal Act, 2001;
- Municipal Conflict of Interest Act;
- Municipal Elections Act, 1996;
- Municipal Freedom of Information and Protection of Privacy Act;
- Criminal Code.

In carrying out their responsibilities regarding the Code of Conduct, the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member, and for clarity the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

## DEFINITIONS

In the Code of Conduct:

“Child” has the same meaning of the term as in the *Municipal Conflict of Interest Act* and includes a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family.

“Family Member” includes a Child, Parent, or Spouse, and also includes:

- a) stepchild and grand-child;
- b) siblings and step-siblings;
- c) aunt/uncle, niece/nephew;
- d) in-laws, including mother/father, sister/brother, daughter/son; and
- e) any person who lives with the Member on a permanent basis.

“Member” means a member of the Lincoln Council, including the Mayor.

“Nomination Day” means the last day for filing or withdrawing a nomination as provided for by the *Municipal Elections Act, 1996*.

“Parent” has the same meaning of the term as in the *Municipal Conflict of Interest Act* and includes a parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child.

“Social Media” means publicly available, third party hosted, interactive web technologies used to produce, post and interact through text, images, video and audio to inform, share, promote, collaborate or network.

“Spouse” has the same meaning of the term as in the *Municipal Conflict of Interest Act* and includes a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

“Staff” includes the Chief Administrative Officer, Directors, Managers, Supervisors and all non-union and union staff whether full-time, part-time, contract, seasonal or volunteers.

## KEY PRINCIPLES THAT UNDERLIE THE CODE OF CONDUCT

Members shall serve and be seen to serve their constituents in a conscientious and diligent manner. Members recognize the public’s right to reasonable access to information in relation to how decisions are made. The public’s right to access however must be balanced against the requirement to protect the legitimate interests of the Town and the respect for approved policies of the Town.

Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

Members shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal parliament, Ontario legislature, and by Town Council. The provisions of this Code are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour set out in current federal and provincial statutes.

There is a benefit to municipalities when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a

profession, in community associations, and otherwise.

## **Rule No. 1 – Avoidance of Conflicts of Interest**

In this Rule:

“disqualifying interest” means an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could not participate impartially in the decision-making processes related to the matter.

“non-disqualifying interest” means an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could participate impartially in the decision-making processes related to the matter so long as:

- i. The Member of Council fully discloses the interest so as to provide transparency about the relationship; and
- ii. The Member of Council states why the interest does not prevent the Member from making an impartial decision on the matter.

“Transparency Disclosure” means a form established by the Clerk acting in consultation with the Integrity Commissioner wherein Members will disclose non-disqualifying interests and which will be public documents be available for viewing on the Town’s web site.

1. Members shall not participate in the decision-making processes associated with their office when prohibited to do so by the *Municipal Conflict of Interest Act*.
2. Members shall not participate in the decision-making processes associated with their office when they have a disqualifying interest in a matter.
3. For greater certainty:
  - a) Members shall not participate in the decision-making processes associated with their office when they have a direct, indirect or deemed pecuniary interest in a matter, except in compliance with the Municipal Conflict of Interest Act.
  - b) Members shall not participate in the decision-making processes associated with their office when they have an interest that though in compliance with the Municipal Conflict of Interest Act, is nevertheless a disqualifying interest by virtue of the nature of the relationship between the Member and other persons or bodies to be affected by the decision.
4. Treatment of Non-Disqualifying Interests:
  - a) Members may participate in the decision-making processes associated with their office when they have a non-disqualifying interest provided they file a Transparency Disclosure at their earliest opportunity and, in any event, before involving themselves in any decision-making process related to the matter.
  - b) The determination of whether an actual disqualifying interest or an actual non-disqualifying interest exists, when challenged, is subject to the determination by the Integrity Commissioner of whether a reasonable person fully informed

of the facts would believe that the Member of Council can or cannot participate impartially in the decision-making processes related to the matter.

### **Commentary**

Members should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and private conflicts of interest, both apparent and real. Members shall also not extend in the discharge of their official duties, preferential treatment to Family Members, organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest.

Members have a common understanding that in carrying out their duties as a Member of Council, they will not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family Member or an individual which is not available to every other individual.

Members are governed by the *Municipal Conflict of Interest Act*. The Integrity Commissioner is empowered to investigate and report on all non-pecuniary conflicts of interest under the Code of Conduct and can act pursuant to an application filed under section 223.4.1 of the *Municipal Act, 2001* with respect to a pecuniary conflict of interest under the Municipal Conflict of Interest Act and render a decision to apply to a judge under section 8 of that statute.

Members may seek conflict of interest advice, including a written opinion, from the Integrity Commissioner however, where members choose to seek external legal advice on conflict of interest issues, these fees will not be reimbursed by the Town of Lincoln and cannot be charged to any office account.

Members shall not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to an individual which is not available to every other individual member of the public. For example, Members shall remain at arm's length when Town staff or Council is asked to consider a matter involving a Family Member or a person or organization with whom the Member has a real or apparent conflict of interest.

5. Members of Council shall avoid any interest in any contract made by him/her in an official capacity and shall not contract with the Town or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof without the approval of the Integrity Commissioner.
6. Members of Council, while holding public office, shall avoid engaging in the management of a business and shall not profit directly or indirectly from such business that contracts with the Town. Where it is not practical to avoid doing so, the Member shall seek the approval of the Integrity Commissioner and follow any conditions that might be set in that regard. When the Member's business matter results in a matter before Council, the Member shall recognize and declare an interest, and shall not participate in or attempt to influence in any way decisions involving decisions by the Town in regard to such business.

### **Commentary**

Members should always endeavour to arrange their business activities in a way that does not place them in a conflict of interest, however, where it is not possible to avoid an interest, the Member must recognize the interest, and recuse themselves from

participating or influencing in any way the decisions of the Town regarding such business.

7. Despite subsection 6, a Member of Council may hold office or directorship in an agency, board, commission or corporation where the Member has been appointed by Council or by the Council of the Regional Municipality of Niagara or by the Federal or Provincial government.
8. Despite subsection 6, a Member of Council may hold office or directorship in a charitable, service or other not-for-profit corporation subject to the Member disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity Commissioner approving the activity, as carried out in the specified manner, which concludes that the Member does not have a conflict between his/her private interest and public duty. In circumstances where the Integrity Commissioner has given the Member a qualified opinion, the Member of Council may remedy the situation in the manner specified by the Integrity Commissioner.

### ***Commentary***

Examples of exceptions include hospital boards, charitable boards, police services boards, community foundations, the Association of Municipalities of Ontario, the Federation of Canadian Municipalities, service clubs such as the Rotary Club, Lions Club and other not-for-profit organizations. Members should exercise caution if accepting such positions if the organization could be seeking a benefit or preferential treatment from the Town at any time.

To ensure the Code remains a living document that will remain current and continue to be a beneficial guide, the Code shall be brought forward for review periodically during each term of Council, with any changes to be implemented at the start of the following Council session.

9. In fulfilling their roles as elected officials, Members shall respect the role of staff in the administration of the business affairs of the Town and in so doing will comply with the Town's Harassment in the Workplace policy.

### ***Commentary***

Decision-making authority lies with Council, and not with an individual Member. Members recognize that it is the role of the officers and employees of the Town to implement Council's decisions and to establish administrative practices and procedures to carry out Council's decisions. Council is the source of all legislative authority and will make decisions on whether and to what extent to delegate this authority to others, including the Mayor, committees and to staff.

Only Council as a whole has the capacity to direct staff members. Council as a whole must be able to access information in order to fulfill its decision-making duties and oversight responsibilities however, individual Members must also recognize that the information they receive in their capacity as elected officials, is subject to confidentiality and disclosure rules contained in federal and provincial legislation and Town policies.

## **Rule No. 2 – Gifts and Benefits**

1. No Member shall accept a fee, advance, cash, gift, gift certificate or personal benefit

that is connected directly or indirectly with the performance of his/her duties of office unless permitted by the exceptions listed below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than reasonable market value or at no cost.

For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Family Member 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.

The following are recognized as exceptions:

- a) compensation authorized by law;
- b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c) a political contribution otherwise reported by law, in the case of Members running for office;
- d) services provided without compensation by persons volunteering their time;
- e) a suitable memento of a function honouring 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 or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;
- g) food and beverages consumed at banquets, receptions or similar events, if:
- h) attendance serves a legitimate business purpose;
- i) the person extending the invitation or a representative of the organization is in attendance; and
- j) the value is reasonable and the invitations infrequent;
- k) communication to the offices of a Member, including subscriptions to newspapers, and periodicals; and
- l) sponsorships and donations for community events organized or run by a Member or by a third party on behalf of a Member and subject to the limitations set out in the Code of Conduct respecting Council Member-organized community events, where all costs are incurred and where all such events occur on or before Nomination Day.

### **Commentary**

Members should be transparent in their dealings with the public, and neither a Member of Council or the Town should handle funds on behalf of any organizations. Members should remain at arm's length from the financial aspects of these events and initiatives.

- a) Members may use their office expense budget to run or support local charities and community events;
- b) Members may urge constituents, businesses and other groups to support community events put on by others in the Member's ward or elsewhere in the Town;



- c) Members may work with community groups to assist them in finding sponsors and
  - d) participants to support community events put on by the community group in the Member's ward or elsewhere in the Town.
  - e) Members may play an advisory or membership role in any organization that holds community events in the Member's ward; and
  - f) Members may collaborate with the Town and its agencies to hold community events and may participate in other events approved by Town Council.
2. In the case of exceptions claimed under subsections 1 b), e), f), g), h) and i):
- a) Where the value of the gift or benefit exceeds \$500, or if the total value received from any one source during the course of a calendar year exceeds \$500, the Members shall within 30 days of receipt of the gift or reaching the annual limit, list the gift or benefit on a Councillor Information Statement in a form prescribed by the Integrity Commissioner, and file it with the Integrity Commissioner.
  - b) Subsection a) does not apply to the receipt of up to two tickets to a dinner or fundraising, as long as the Member is attending only one such event with the same individual or corporation within any calendar year.
  - c) For clarification, Members are authorized to receive gifts, mementos and benefits which are common to receive in the normal course of fulfilling their duties. Members are not obliged to list on a Councillor Information Statement or anywhere else, a record of their receipt, unless the total value of such gifts or benefits received from any one source in a calendar year exceeds \$500.
3. On receiving a Councillor Information Statement, the Integrity Commissioner shall examine it to determine whether the receipt of the gift or benefit might, in the opinion of the Integrity Commissioner, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, he/she shall call upon the Member to justify receipt of the gift or benefit.
4. Should the Integrity Commissioner determine the receipt was inappropriate, the Integrity Commissioner may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or the Integrity Commissioner may order the Member to forfeit the gift or remit the value of any gift or benefit already consumed to the Town, or a Town agency, board or commission. Any such direction ordered by the Integrity Commissioner shall be a matter of public record.
5. Each Member shall file a quarterly Declaration (March 31, June 30, September 30 and December 31) with the Integrity Commissioner in a form prescribed by him, that he or she has received no gift or benefit which exceeds in value the sum of \$500 alone or in the aggregate, except as may have been disclosed in a Councillor Information Statement filed with the Integrity Commissioner and all such Declarations shall be a matter of public record.

### ***Commentary***

Gifts and benefits are often received by elected officials in the course of their duties and attendance at public functions is expected and is considered part of their role. Business-related entertainment and gift-giving can be a token of respect and

admiration for the elected official but can also be seen as an instrument of influence and manipulation. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits and to establish a threshold where the total value could be perceived as potentially influencing a decision.

The practical problems that nominal gifts and benefits create require a Code of Conduct that provides clarity and transparency. Personal integrity and sound business practices require that relationships with developers, vendors, contractors or others doing business with the Town be such that no Member of Council is perceived as showing favoritism or bias toward the giver. There will never be a perfect solution.

Each Member of Council is individually accountable to the public and is encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values, in their offices for review by the Integrity Commissioner in the event of a complaint.

Those gifts or benefits that exceed \$500 or the annual limit of \$500 for one source, need to be kept on a form prescribed by the Integrity Commissioner and filed with the Integrity Commissioner on a quarterly basis to ensure transparency.

Examples of gifts that are required to be listed on the Councillor Information Statement may include:

- a) property (i.e. a book, flowers, gift basket, painting or sculpture, furniture, wine);
- b) membership in a club or other organization (i.e. a golf club) at a reduced rate or at no cost;
- c) an invitation to and/or tickets to attend an event (i.e. a sports event, concert, play) at a reduced rate or no cost;
- d) or an invitation to attend a gala or fundraising event at a reduced rate or at no cost.

Use of real estate or significant assets or facilities (i.e., a vehicle, office, vacation property) at a reduced rate or at no cost is not an acceptable gift or benefit. Having said that, it has to be recognized that Members will have friends and will develop friendships with individuals who may from time to time have business relationships that will involve the Town in some way. The purpose of the Code is not to prohibit Members from accepting all invitations to socialize at a vacation property of personal friends.

Proper caution and diligence must however be exercised when a social function occurs within close proximity to the individual having an issue before Town Council or staff for approval. It is always prudent to consult with the Integrity Commissioner before accepting or attending at any such engagements.

Any doubts about the propriety of a gift should be resolved in favour of not accepting it or not keeping it. It may be helpful to consult with the Integrity Commissioner when a Member chooses to decline a gift as well as when a recipient may opt to keep a gift.

An invitation to attend a function where the invitation is directly or indirectly connected with the Member's duties of office is not considered to be a gift but is the fulfillment of an official function or duty. An invitation to attend a function with a developer or supplier, however, could be seen as allowing the giver an opportunity to influence the elected official. Such invitations should only be accepted if the invitation is within the

scope of permissible gifts and benefits, meaning that Members should not consistently accept invitations from the same individual or corporation and should avoid any appearance of favoritism.

For clarification, an invitation to an event celebrating the successful completion of a development or project or the opening of a new business within the Member's ward on the other hand could serve a legitimate business purpose and be seen as part of the responsibilities of office provided the person extending the invitation or that person's representative is in attendance.

An invitation to attend a charity golf tournament or fund-raising gala, provided the Member of Council is not consistently attending such events as a guest of the same individual or corporation, is also part of the responsibilities of holding public office. Likewise, accepting invitations to professional sports events, concerts or dinners may serve a legitimate business purpose. Where a Member is uncertain in regards to whether an invitation is or is not appropriate, it may be prudent to consult with the Integrity Commissioner before attending any such event.

Regular invitations to lunch or dinner with persons who are considered friends of Members is acceptable in situations where the Member pays their portion of the meal expense and treats it as a personal expense. Proper caution and diligence not to discuss matters before the Town for a decision must be exercised at all times. Again, when in doubt it is prudent to consult with the Integrity Commissioner.

### **Rule No. 3 – Confidential Information**

Confidential Information includes information in the possession of, or received in confidence by, 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 any other legislation.

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.

The *Municipal Act, 2001* allows information that concerns personnel, labour relations, litigation, property acquisitions and security of the property of the Town or a local board, and matters authorized in other legislation including MFIPPA, to remain confidential. For the purposes of the Code of Conduct, "confidential information" includes this type of information.

1. As elected officials, Members will receive highly sensitive and confidential information concerning residents who need their assistance. This is consistent with the nature of the Members' duties. In accordance with the Town's Elected Officials' Records policy, Councillor constituency records are at all times under the control of the Member and are not subject to any municipal disclosure requirements.
2. The following are examples of the types of information that a Member of Council must keep confidential:
  - items under litigation, negotiation, or personnel matters;
  - information that infringes on the rights of others (e.g. sources of complaints where the identity of a complainant is given in confidence);
  - price schedules in contract tender or request for proposal submissions if so

specified;

- information deemed to be “personal information” under the Municipal Conflict of Interest Act; and
  - statistical data required by law not to be released (e.g. certain census or assessment data)
3. Where it is clear that a communication was not made in a confidential manner (i.e. copied to others, or made in the presence of others) or the manner of communication undermines the validity of labelling it “Confidential”, such communication will not be given any higher level of confidentiality than any other communication. The words “Privilege”, “Confidential” or “Private” will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.
  4. Under the Procedure By-law, a matter that has been discussed at an in-camera (closed) meeting remains confidential, until such time as a condition renders the matter public.
    - a) No Member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the Council or Committee discusses the information at a meeting that is open to the public or releases the information to the public.
    - b) No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except where required by law or authorized by Council to do so.
    - c) No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. For 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.
    - d) Members should 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 is not prohibited by Council policy.

#### **Rule No. 4 – Use of Town Staff, Property, Services and Other Resources:**

1. No Member shall use for personal purposes any Town staff services, property, equipment, services, supplies, websites, web boards, or other Town-owned materials, other than for purposes connected with the discharge of Town duties.
2. No Member shall obtain personal financial gain from the use or sale of Town-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations or any other item capable of being patented. Members acknowledge and do not dispute that all such property remains exclusively that of the Town of Lincoln.
3. No Member shall use information gained in the execution of his or her duties that is not available to the general public, for any purposes other than his or her official duties.

#### ***Commentary***

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their Town duties as public officials.

While most of this property is provided within the confines of their office, much of it is transportable or may be provided for home use, given the nature of the demands placed on Members in carrying out their duties and in recognition of the fact that the Town does not provide constituency offices to Members. Members are held to a higher standard of behaviour and conduct and therefore should not use such property for any purpose other than for carrying out their official duties. For clarity, this Rule is intended to prohibit the use of Town resources for purposes such as running a home business. It is not intended to prohibit occasional personal use, but it should be subject to practical limitations.

During election campaigns, the provisions of Rules 6 and 7 will apply.

4. No Member shall use the services of Town staff, or make requests for document or information from Town staff, unless such information is required for the purpose of carrying out their duties as public officials.
5. No Member shall include in his or her website, newsletters, E-mails or other printed material, advertising of businesses in the Town, including the distribution of gift certificates, free tickets and compiling a list of businesses located in a ward. Attending and reporting the opening of a new business or a business event in the Town is permissible and a Member may thank verbally or in a newsletter, a business by name or an employee of that business, which contributes to a Town or ward event provided that no such recognition shall constitute an endorsement of such business.

### **Rule No. 5 – Election Campaigns**

1. Members are required to follow the provisions of the *Municipal Elections Act, 1996* as amended, and Members are accountable under the provisions of that statute.
2. No Member shall use the facilities, equipment, supplies, services, staff or other resources of the Town (including Councillor newsletters, individual websites linked through the Town's website and social media accounts used for ward communication) for any election campaign or campaign-related activities and all such sites shall not use the Town of Lincoln logo.
  - a) If a member of Council uses any social media account for campaign purposes, such account must not be created or supported by Town resources or use the Town logo. Social media accounts used for campaign purposes must utilize personal cell phones, tablets and/or computers.
  - b) To avoid confusion with any website or social media accounts used for Council Member work, Council members who choose to create or use social media accounts for campaign communications must include, for the duration of the campaign, a clear statement on each campaign website or social media account's home page indicating that the account is being used for election campaign purposes.
  - c) Despite the foregoing, Members are allowed to place campaign phone numbers, websites and E-mail addresses on the election pages on the Town's website, which is available and authorized for use by all candidates for

municipal and school board office.

3. In a municipal election year, commencing on June 30th until the date of the election, Members may not publish Councillor newsletters or distribute them in municipal facilities. All newsletters distributed through the mail must be post- marked by no later than June 30th in an election year. Members may, during such period, use Town facilities to communicate important notifications to the residents of their ward by E-mail in normal Outlook format or by letter on the Councillor's stationery.
4. In a municipal election year, commencing on the date of registration by any candidate for municipal elected office, until the date of the election, no such candidate including Members, may directly or indirectly, book any municipal facility for any purpose that might be perceived as an election campaign purpose.
5. Members shall be respectful of the role of the Town Clerk in managing the municipal election process and meeting all statutory requirements in respect thereof. The Clerk must ensure all candidates are treated equally and no candidate for elected office should interfere with how the Clerk carries out these duties.

### **Commentary**

Staff should not interpret or provide advice to Members regarding the requirements placed on candidates for municipal office.

The restriction on booking facilities ensures that election-related functions, or those that could appear to be election-related, will not occur at any time there is an advance or regular poll at the facility. The need to set up in advance means that election night parties cannot be held in the same facilities that polling stations are located in.

Members should not authorize any event that could be perceived as the Town providing them with an advantage over other candidates. It is the personal responsibility of Members to ensure that any use of facilities or the services of municipal staff are carried out in accordance with applicable legislation. Staff are not responsible for monitoring and advising Members or any other candidates, in this regard.

The *Municipal Elections Act, 1996*, as amended, clearly states that it is the responsibility of the Town Clerk to conduct the election and take all necessary actions to ensure municipal elections meet all statutory requirements.

6. No Members shall use the services of persons for campaign related Activities during hours in which those persons receive any compensation from the Town.
7. The Integrity Commissioner may at any time be consulted with regard to complying with any part of Rule 6 and in particular may rule on whether any activity by staff in a Councillor's office during an election year is prohibited election work or permitted activity sufficiently unrelated to the election.

### **Rule No. 6 – Improper Influence**

1. No member shall use the influence of his or her office for any purpose other than for the exercise of his/her official duties.
2. Members shall not contact members of any tribunal regarding any matter before it, such as the Committee of Adjustment, which is charged with making independent

decisions and whose members have been appointed by Council. Members may with prior written notice to the Committee of Adjustment Secretary/Treasurer, infrequently attend meetings to provide the Committee of Adjustment with history and context of an application before the committee. Members may send a letter or E-mail addressed to the Secretary of such tribunal expressing the views of the member on behalf of the community. If Council has taken a position in an Ontario Land Tribunal (“OLT”) matter and instructed the Town Solicitor to appear at a hearing in support of such position, no member of Council who disagrees with such position, shall give evidence at such hearing or otherwise work against the will of Council in such matter unless the Member declared an interest in the matter when it came before Council, and recused themselves from participating in any decision on the matter by the Town.

### ***Commentary***

Examples of prohibited conduct are the use of one’s status as a Member of Council to improperly influence the decision of another person to the private advantage of oneself, or one’s Family Member, or friends. 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 a future advantage through a Member’s supposed influence within Council in return for present actions or inaction.

Contact with members of tribunals appointed by Council on any case might be viewed as attempts to intimidate the tribunal member. Generally, Members should not take part in the proceedings of any other tribunal where the Town is a party unless such participation is approved by the Integrity Commissioner.

It is recognized that, on occasion, a Member’s own property may be potentially directly impacted by a proposed development application. In such case, where the Member has declared an interest, and has removed themselves from participating in any decision on the matter, the Member may participate in the OLT hearing representing their own personal interest.

3. Pursuant to corporate policy, the Town Chief Administrative Officer directs Town Directors, who in turn direct Town staff. Town Council and not individual Members appropriately give direction to the Town administration.

### **Rule No. 7 – Business Relations**

1. No Member shall allow the prospect of his/her future employment by a person or entity to affect the performance of his/her duties to the Town, detrimentally or otherwise.
2. No Member shall borrow money from any person who regularly does business with the Town unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money, such as a credit union.
3. No Member shall act as a paid agent before Council or a committee of Council or any agency, board or committee of the Town.
4. No Member shall refer a third party to a person, partnership or corporation in exchange for payment or other personal benefit.

### **Rule No. 8 – Conduct of Council at Committee Meetings and When Representing the**

**Town:**

1. Members shall conduct themselves at Council and committee meetings with decorum in accordance with the provisions of the Procedural By-law.

***Commentary***

A Member recognizes the importance of cooperation and strives to create an atmosphere during Council and committee meetings that is conducive to solving the issues before Council, listening to various points of view and using respectful language and behaviour in relation to all of those in attendance.

2. Members shall endeavour to conduct and convey Council business and all their duties in an open and transparent manner other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner in closed session, and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.

***Commentary***

Various statutes, the Procedural By-law and decisions by courts and quasi-judicial tribunals including the Information and Privacy Commissioner, establish when Town Council can discuss issues in closed session. Transparency requires that Council apply these rules narrowly so as to best ensure that decisions are held in public session as often as possible.

Unless prohibited by law, Members should clearly identify to the public how a decision was reached and the rationale for so doing.

3. Members shall make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the Town or by virtue of being an elected official.

***Commentary***

Individual Members are appointed to committees, agencies, boards and commissions based on their various backgrounds and their ability to contribute to matters before them, bringing their expertise and experience.

4. Given that Council and committee meetings are scheduled far in advance to accommodate the many activities of elected office of a Member, to participate diligently means that a Member shall not be absent from Council or committee meetings, or from those of agencies, boards and commissions to which they are appointed by virtue of their status as a Member, without reasonable justification (for example, illness of the Member, family circumstance, Regional business) for more than three (3) consecutive scheduled meetings or on a regular basis.

**Rule No. 9 – Social and Traditional Media Communications**

1. Members will accurately communicate the decisions of Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.
2. Members will keep confidential information confidential, until such time as the matter



can properly be made public.

***Commentary***

A Member may state that he/she did not support a decision, or voted against the decision. A Member should refrain from making disparaging comments about other Members or about Council's processes and decisions.

When communicating with the media, a Member should at all times refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member of Council.

While openness in government is critical, governments also must respect confidentiality when a matter must remain, at least for a period of time, confidential. Breaches of confidentiality by Members erodes public confidence.

**Rule No. 10 – Respect for the Town and its By-laws and Policies**

1. Members shall encourage public respect for the Town and its by-laws.

***Commentary***

A Councillor must not encourage disobedience of a Town by-law in responding to a member of the public, as this undermines confidence in the Town and in the Rule of Law.

2. Members shall conduct themselves with appropriate decorum at all times.

***Commentary***

As leaders in the community, Members are held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary.

**Rule No. 11 – Respectful Workplace Policy**

1. Members are governed by the Town's Harassment in the Workplace policy. All Members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment.

***Commentary***

It is the policy of the Town that all persons be treated fairly in the workplace in an environment free of discrimination or personal and sexual harassment.

The Town's Harassment in the Workplace policy ensures a safe and respectful workplace environment and provides for the appropriate management of any occurrences of harassment and discrimination as those terms are defined in the policy.

The Town's Harassment in the Workplace policy applies equally to members of staff and Members. It will provide guidance to the Integrity Commissioner when a complaint is received involving a Member.

2. All complaints received, involving Members under the Harassment in the Workplace policy shall be referred to the Integrity Commissioner for review and investigation as necessary.

3. The Ontario Human Rights Code applies in addition to the Town's Harassment in the Workplace policy.

### **Rule No. 12 – Conduct Respecting Staff**

1. 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.
2. No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.
3. 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.
4. No Member shall maliciously or falsely impugn or 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.

#### ***Commentary***

Under the direction of the Chief Administrative Officer, staff serve the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Only Council as a whole has the authority to approve budget, policy, committee processes and other matters.

Accordingly, Members shall direct requests outside of Council-approved budget, process or policy, to the Budget Committee or directly to Council.

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 include dealing with constituents and the general public, participating as standing committee members and as chairs of standing 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. Staff are expected to provide information to Members that they are entitled to.

Town staff are accountable to the Chief Administrative Officer who is accountable to Council. Sometimes the line between staff duties and activities that are political in nature is not clear. Members must respect the difference between the two in making requests of staff.

Members should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalty of persons in power, or their personal opinions.

The Town's Harassment in the Workplace policy applies to Members. Staff and Members are all entitled to be treated with respect and dignity in the workplace.

5. It is inappropriate for a Member to attempt to influence staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application. It is also inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the Chief Administrative

Officer. Any such attempts should be reported to the Integrity Commissioner.

### **Rule No. 13 – Employment of Council Relatives/Family Members**

1. No Member shall attempt to influence the outcome, or to influence any Town employee to hire or promote a Family Member.
2. No Members shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member.
3. No Member shall supervise a Family Member, or be placed in a position of influence over a Family Member.
4. No Member shall attempt to use a family relationship for his or her personal benefit or gain.
5. Every Member shall adhere to the Town's recruitment policies and procedures.

#### ***Commentary***

If a Family Member of a Member is an applicant for employment with the Town or is a candidate for promotion or transfer, the Family Member will proceed through the usual selection process pursuant to the Town's hiring policies, with no special consideration.

### **Rule No. 14 – Failure to Adhere to Council Policies and Procedures**

1. Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

#### ***Commentary***

Members are required to observe the policies and procedures established by Council at all times, and are directed to pay special attention to, and comply strictly with, the Procedural By-law. In exceptional circumstances, a Member may request Council grant an exemption from any policy.

### **Rule No. 15 – Reprisals and Obstructions**

1. It is a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities.
2. No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code of Conduct, or against a person who provides information to the Integrity Commissioner in any investigation.
3. It is also a violation of the Code of Conduct to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the Code of Conduct.

#### ***Commentary***

Members should respect the integrity of the Code of Conduct and investigations conducted under it.

## **Rule No. 16 – Acting on Advice of Integrity Commissioner**

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.