

FORMAL REPORT

To:	Chair Stratthdee and Members of Strategic Priorities Committee
Prepared by:	Brent Kittmer, CAO/Clerk
Date of Meeting:	19 June 2018
Subject:	CAO 21-2018 DRAFT Code of Conduct

PURPOSE

The purpose of this report is to present a draft Code of Conduct to the Strategic Priorities Committee. The draft attached to this report was reviewed by Council's ad-hoc committee for the Code of Conduct on May 23, 2018. Staff is seeking the Strategic Priorities Committee's input on the draft with the intent to present a final draft of the code to full Council in July.

RECOMMENDATION

THAT CAO 21-2018 Draft Code of Conduct report be received for review and discussion.

BACKGROUND

Through Bill 68, the Province of Ontario made several amendments to the *Municipal Act* in an effort to help local governments be more open, flexible and accountable to the people they serve.

One of the amendments to the *Municipal Act* was Section 223.2(1) – Codes of Conduct. The amendment now requires all municipal Councils in Ontario to establish a Code of Conduct for the members of Council and its local boards. This requirement comes into force as of March 1, 2019 meaning that Town Council must have adopted a Code of Conduct on or before that date.

Section 223.2(4) sets out that the Province can make regulations that prescribe the minimum requirements of a Code of Conduct. The Province has done just that through the passing of O. Reg. 55/18. This regulation requires Codes of Conduct to meet the following minimum requirements:

For the purposes of section 223.2 of the Act, the following are the 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.*

In addition to the above, Bill 68 amended Section 270 (1) – Adoption of Policies. The *Municipal Act* now requires Council to adopt a policy which addresses the relationship between members of council and the officers and employees of the Town.

REPORT

Attached to this report is a draft Code of Conduct compiled by the CAO/Clerk for the committee's review. The draft Code of Conduct is a hybrid reflecting:

- A draft Code of Conduct prepared for the Town by Siskinds in 2015 at the instruction of the interim-CAO.
- All applicable legislative requirements, with various sections of the Code being reprints of legislation (highlighted in blue).
- Best practices gathered from other example Codes of Conduct, most notably the City of Toronto (considered to be the template Code of Conduct in the province).
- Best practices gathered from advice from Amberley Gavel (Nigel Bellchamber and Fred Dean, highlighted in pink).

The sections of the Code of Conduct that have been included to meet the minimum requirements of Section 223.2(4) of the *Municipal Act* have been highlighted in yellow.

The draft Code of Conduct has also been written to satisfy the requirements of Section 270(1) of the *Municipal Act* which requires a Council-Staff relations policy.

Council has established an ad-hoc committee consisting of Mayor Strathdee and Councillors Craigmile, Pope and Van Galen to review and recommend a draft Code of Conduct for Council. This ad-hoc committee met on May 23, 2018 to review the draft Code of Conduct. The current draft was found to be acceptable by the committee, with the following comments:

- Definitions – staff were given direction to research case law for better definitions of “apparent” and “potential” conflicts of interest.
 - ➔ Staff have fulfilled this direction. The Federal Government publishes “Values and Ethics” for the public sector (<https://www.canada.ca/en/government/publicservice/values.html>). Included is a section that includes research on conflict of interest, with definitions provided from relevant case law and inquiries. Staff have adapted these definitions and included them into the Code of Conduct.
- S. 7 Disclosure of Gifts – the Committee indicated a preference for all gift disclosures to be maintained by the Clerk as a public document, but not to have the disclosures published on the Town website.
- S. 20 Disparaging Remarks about Council / Committee / Board Decisions – the Committee added clarification to this clause that individual members still have the right to respectfully disagree with a decision after it is made.
- S.66 Reprimand for Code of Conduct Violation – staff were given direction to seek out a standardized reprimand to ensure there was consistency when this penalty was enforced.
 - ➔ Staff have fulfilled this direction by inserting Schedule D which is a template letter for imposing a penalty under the Code of Conduct.

SUMMARY

It is not staff’s role to dictate the ethics by which Council should conduct themselves and their business. Adopting a Code of Conduct is a Council driven process that is now a requirement of the *Municipal Act*.

The draft Code of Conduct attached to this report exceeds the minimum requirements of the *Municipal Act*, and is reflective of the existing best practices found in the industry.

The draft attached to this report was reviewed by Council’s ad-hoc committee for the Code of Conduct on May 23, 2018. The ad-hoc committee found the current draft to be generally acceptable, and discussed the next steps in the adoption of the Code. The committee’s consensus was that the Code should be adopted before the end of this term of Council.

Staff is seeking the Strategic Priorities Committee’s input on the draft with the intent to present a final draft of the code to full Council in July.

FINANCIAL IMPLICATIONS

None.

STRATEGIC PLAN

☒ Not applicable to this report.

OTHERS CONSULTED

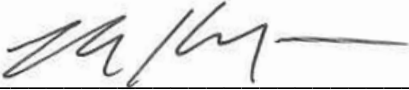
None.

ATTACHMENTS

1. Draft Code of Conduct

REVIEWED BY

Recommended by the CAO



Brent Kittmer
CAO / Clerk