
HALDIMAND COUNTY

Report CLE-16-2024 Council Code of Conduct

For Consideration by Council in Committee on November 19, 2024



OBJECTIVE:

To recommend an updated Council Code of Conduct to align with legislation and best practices.

RECOMMENDATIONS:

1. THAT Report CLE-16-2024 Council Code of Conduct be received;
2. THAT Council rescind Policy 2008-02 Council Code of Conduct;
3. AND THAT the updated Code of Conduct for Members of Council, attached to Report CLE-16-2024, be approved.

Prepared and respectfully submitted by: Chad Curtis, Municipal Clerk

Approved: Cathy Case, Chief Administrative Officer

EXECUTIVE SUMMARY:

Haldimand County Council must adopt a code of conduct for itself and the members of its local boards and committees as per Section 270 of the *Municipal Act, 2001* (Act). The Council Code of Conduct (Code) is an integral part of Haldimand's accountability framework. It reflects the municipality's commitment to the highest standard of ethical conduct. This commitment is important to maintain the integrity of Haldimand's government and to uphold its reputation.

The Code has served Haldimand well since it was first adopted in 2008 and updated in 2019. This update reflects best practices in the field of Council Code of Conduct since 2019 with input and guidance provided by Haldimand's Integrity Commissioner and the Ontario Ombudsman. A proposed Code is included in this report for consideration by Council.

BACKGROUND:

Haldimand County established the Code of Conduct for Members of Council in 2008. As legislation changed in 2019 with the passing of Bill 68, the *Modernizing Ontario's Municipal Legislation Act* amended the Act to mandate that all municipalities in Ontario have a Council Code of Conduct and an Integrity Commissioner. The legislation prescribes provisions that a Code of Conduct must contain. Since this time, there has been numerous case law and best practices established that have built on the legislation.

On March 4, 2024, Haldimand County appointed David Boghosian of Boghosian & Allen LLP as Integrity Commissioner for the municipality. While Haldimand has had a Code in place for over 15 years, this report introduces an updated version that reflects best practices and information provided by Mr. Boghosian and the Ombudsman of Ontario.

ANALYSIS:

Haldimand's Integrity Commissioner (IC) was asked to review the proposed code drafted by staff (Attachment 1), and make recommendations and provide clarification on certain matters. The IC supported most of the proposed changes and provided a number of recommendations that are incorporated into the proposed policy.

Updates to the Code of Conduct include:

- The complaint/inquiry protocols are updated to provide a more streamlined approach to the Informal Complaint procedure. Instead of having a complainant file a written and supporting affidavit with the Clerk, if an individual notices behaviour that appears to be in contravention of the Code, they can address the matter directly with the councillor as a means to stopping and remedying behaviour that is in contravention of the Code. Further, this approach is in line with the Ombudsman's request that municipalities remove barriers to making complaints. The Code also allows for a Complainant to request that the Clerk or Integrity Commissioner contact the subject member on their behalf for an informal complaint.
- Removal of the requirement for complainants to declare an affidavit to submit a formal and/or informal complaint. This is also seen as a barrier to the process and recommended by the Ontario Ombudsman.
- The Purpose section includes an expanded explanation of what the Code is and the conduct that it governs.
- The Integrity Commissioner now has the discretion to terminate an investigation at any stage if it does not warrant further action.
- The proposed Code allows the Integrity Commissioner to settle a formal complaint if they believe that they can do so.
- Updating the complaint process for Municipal Conflict of Interest Act (MCIA) infractions to more clearly identify who can make an application to the Integrity Commissioner.
- Clarity regarding which boards and designated committees are subject to the proposed Code. Each board and/or committee that the Code is applicable to is listed in the proposed policy.
- Rules to provide clarity with respect to gifts. Based on jurisdictional scanning, many municipal Code of Conduct's include a threshold whereby a member of Council or designated Board/Committee may accept a gift in the course of their official duties. A \$300 threshold was proposed whereby gifts greater than the threshold must be disclosed to the Integrity Commissioner for consideration and advice.
- Updated definitions to provide clarity and guidance on interpreting the Council Code of Conduct.
- Includes easy to read roles and responsibilities for members of Council.
- The proposed Code contains detailed procedures for filing an informal complaint and formal complaints.
- Expectations for Council's communications, media relations, promotion and interactions on social media.

The Ombudsman of Ontario published a pamphlet called [Codes of Conduct and Integrity Commissioners: Guide for Municipalities](#). The guide addresses a number of contentious issues that have arisen in Council Codes of Conduct and Integrity Commissioners since both became mandated in 2019. A number of the recommendations included in the pamphlet have been incorporated into the proposed Code.

The Ontario Ombudsman is appointed under the *Ombudsman Act* and is independent of political parties and investigations. The Ombudsman has the authority to conduct impartial reviews and investigations into the administrative conduct of municipalities.

In January 2024, the Ombudsman of Ontario contacted the Chief Administrative Officer and Municipal Clerk to discuss the current Council Code of Conduct as a routine measure. In particular, the Ombudsman's Office addressed Haldimand's informal and formal complaint procedures. If an individual chooses to file a complaint under the Code, they are required to provide a supporting affidavit in order to file a complaint under both the informal and formal complaint procedures. In addition, Haldimand charges a \$200 deposit to file a complaint under the formal complaint procedure. Staff do not have the discretion to waive the deposit, regardless of an individual's ability to afford this deposit. However, this fee is refunded if the Integrity Commissioner chooses to investigate the complaint.

The Ombudsman of Ontario wrote a letter (Attachment 2) to Haldimand County dated September 17, 2024 regarding the current Council Code of Conduct. In this letter, the Ombudsman recommended that Haldimand amend its Council Code of Conduct policy to remove the filing fee and affidavit requirement for complaints. The Ombudsman noted in this letter that the filing fee is likely implemented as a deterrent "to minimize the number of frivolous or vexatious complaints, or complaints without sufficient grounds to support an investigation."

Council may wish to consider the removal of the \$200 deposit. The Ombudsman acknowledged that their role is to provide advice, however ultimately the decision related to fees currently rests with individual municipal Councils. The proposed Code continues to include a \$200 deposit for formal complaints. If Council prefers that this clause be removed, they would be required to put forth an amending motion during the meeting.

The proposed Code has removed the requirement for complainants to declare an affidavit to submit an informal or formal complaint. As described by the Ombudsman, this was seen as a barrier to the process. If Council wishes to continue the affidavit requirement, an amending motion would need to be put forward during the meeting.

If approved, a by-law to adopt the Council Code of Conduct (Attachment 3) would be brought forward for Council's consideration at a future meeting. The proposed by-law would repeal the previous by-law (By-law 2477/23).

FINANCIAL/LEGAL IMPLICATIONS:

The 2024 Tax Supported Operating Budget includes \$20,000 as an initial estimate for annual costs related to the legislated framework for the Integrity Commissioner, which includes review of and education regarding the Code. Training of members of Council and local boards and committees is a legislated requirement and is included in this estimate. Additional fees may be incurred related to advice sought from the Integrity Commissioner by Council, as well as any inquiries and investigations related to apparent contraventions of the Code or the MCIA.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: Yes

REFERENCES:

1. [By-law 2477/23](#)
2. [Codes of Conduct and Integrity Commissioners: Guide for Municipalities](#)
3. [Municipal Act, 2001](#)
4. [Municipal Conflict of Interest Act](#)
5. [Ombudsman Act](#)

ATTACHMENTS:

1. Proposed Code of Conduct for Members of Council.
2. Letter from Ombudsman.
3. Council Code of Conduct Policy No. 2008-02