

Monday, January 18, 2016 at 9:00 AM  
Council Chambers

Agenda compiled on 14/01/2016 at 2:40 PM

## **Declarations of Pecuniary Interests**

### **Presentation**

1. The Deputy Clerk to address the Committee with a PowerPoint presentation regarding the Draft Code of Conduct for Members of Council. (PowerPoint to be distributed when available)

### **Deputations**

### **Items**

2. Corporate Services Report – Legislative Services 2016-01 dated January 14, p. 1 2016 regarding 'Draft Code of Conduct for Members of Council'.

The Commissioner of Corporate Services and the Director of Legislative Services recommend:

a) THAT Corporate Services Report – Legislative Services 2016-01 dated January 14, 2016 regarding 'Draft Code of Conduct for Members of Council' be received and the following recommendations be adopted:

i) THAT Council provide comment on the draft Code of Conduct for Members of Council (attached as Appendix B);

ii) AND THAT a final draft Code of Conduct for Members of Council be considered at the February 22, 2016 Committee of the Whole meeting;

iii) AND THAT in addition to general public notice, individuals who previously provided input on the Code, and where contact information is available, be notified directly.

### **Closed Session (if required)**

3. Chief Administrative Officer (Closed Session) Report 2016-01 dated January 13, 2016 regarding a pending acquisition of land in Aurora by the municipality as per Section 239 (2) (c) of the Municipal Act, 2001.

### **Adjournment**



January 14, 2016

**CORPORATE SERVICES REPORT – LEGISLATIVE SERVICES – 2016-01**

TO: Mayor Van Bynen and Members of Council

SUBJECT: Draft Code of Conduct for Members of Council

ORIGIN: Legislative Services

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**RECOMMENDATIONS**

a) THAT Corporate Services Report – Legislative Services – 2016-01 dated January 14, 2016 regarding “Draft Code of Conduct for Members of Council” be received and the following recommendations be adopted:

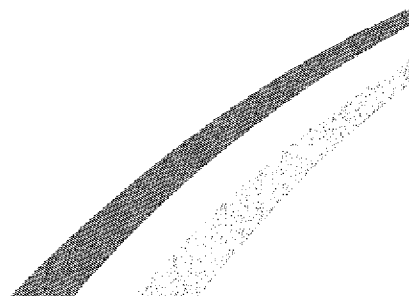
i) THAT Council provide comment on the draft Code of Conduct for Members of Council (attached as Appendix B);

ii) AND THAT a final draft Code of Conduct for Members of Council be considered at the February 22, 2016 Committee of the Whole meeting;

iii) AND THAT in addition to general public notice, individuals who previously provided input on the Code, and where contact information is available, be notified directly.

**PURPOSE**

The purpose of this report is to:

- Provide Council with recommendations and description related to a draft Council Code of Conduct.
  - Provide a recommended approach related to best practices raised during the course of the Council Code of Conduct review.
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## **BACKGROUND**

### **COUNCIL CODE OF CONDUCT REVIEW**

The Municipal Act, 2001 (the Act) provides that the Town may establish a Council Code of Conduct ("Code") which outlines ethical standards of behaviour for Members of Council. The Act also provides that a municipality may appoint an Integrity Commissioner who, among other duties, may investigate potential breaches of the Code and recommend penalties to Council where he or she has found the Member of Council to have contravened the Code.

In 2007, Newmarket Council enacted By-law 2007-42, the current Code (attached as Appendix A). In the previous term of Council, draft amendments to the Code were considered and referred to the current term of Council for review. Additionally, Council authorized the following during the period of time the Code is under review:

- In place of the complaint procedure in By-law 2007-42, Code complaints be sent directly to the Integrity Commissioner; and,
- Code complaints related to the subject matters outlined in the February 4, 2015 report of the Integrity Commissioner to Council be held in abeyance until the review of the Code is completed. This matter is further clarified in Information Report 2015-03 dated February 26, 2015 (available from Legislative Services).

This term of Council's review of the Code was undertaken in three phases:

Phase One took place between June 23 and 25, 2015 and involved the consulting services of Mr. David Nitkin from EthicScan conducting in-depth interviews with individual Members of Council, senior staff and representatives of the Employee Relations and Internal Communications (ERIC). This phase provided an opportunity to identify individual perspectives and common themes as they relate to Council Member conduct, ethics and how the standards in the Code relate to corporate policies.

Phase Two included a public feedback forum referred to as a colloquium held on September 16, 2016 facilitated by Mr. Nitkin and his colleagues. The purpose of the colloquium to seek public feedback on the Code generally and on specific themes related to Code provisions related to spouses/partners of Members of Council, the complaints procedure, the Code's remediation and disciplinary framework, conflicts of interest, charity events and social media.

The colloquium involved participation by 16 members of the public, staff and Council. Public input was also provided by email to Mr. Nitkin.

Phase Three consisted of a Council Workshop held on October 20, 2015 and presentation of the draft Code outlined in this report. Prior to the Council Workshop, Mr. Nitkin solicited feedback on specific Code provision preferences and related comments (if any) through a survey to individual Members of Council. At the Council Workshop, Mr. Nitkin summarized feedback and themes in Phases One and Two and obtained feedback from Council on various Code provision options and evolving organizational ethics practices.

Staff have worked to refine Code provisions based on Council's feedback at the October 20, 2015 Council Workshop and advice on evolving organizational ethics practices highlighted by Mr. Nitkin. Staff sought expert external legal input as well as input from the Integrity Commissioner to ensure Code enforceability relative to completed Code investigations and evolving case law.

The draft Code is attached as Appendix B. Staff recommend that Council provide their input on Appendix B to allow for a final draft Code to be brought forward at the February 22, 2016 Committee of the Whole meeting. A summary of the key sections in the draft Code is outlined below, including whether the section is new and/or revised from current Code.

#### Section 1: Principles and Values (new)

A statement of principles and values identify the concepts that govern the overall behavior of Members of Council and help frame the remainder of the Code's more specific provisions.

#### Section 2: Definitions (new & revised)

Definitions have been revised or added where necessary to support new sections.

#### Section 3: Conduct of Members (revised)

Revised from referring to conduct at meetings to conduct generally, and aligns with expectations of Members at meetings as outlined in the Town's Procedure By-law.

#### Section 4: Compliance with the Code (new)

A compliance section has been added to ensure Members do not undertake any act of reprisal, or threat of reprisal against a complainant providing information in the course of the Integrity Commission's investigation or obstruct the Integrity Commissioner in their duties.

Through the definition of "Member," this section states that the Code applies to Members of Council. The Code does not apply to family members or business partners.

The potential for the Code to apply to members of Town boards and committees who exercise an independent municipal decision making authority (for example, the Appeal Committee, Committee of Adjustment or Compliance Audit Committee) was raised at the October 20, 2015 Council Workshop. Given that the Code's enforcement mechanisms only apply to Members of Council, application of the Code to Town boards and committees is not recommended.

Town committee and board member conduct is addressed in the Committee Administration Policy adopted by Council on April 20, 2015, including the following practices:

### **Committee Conduct**

In addition to their responsibilities as Members set out in the Town's Procedure By-law 2013-46, as amended from time to time, Members are expected to:

- i. Act in the best interest of the Town;
- ii. Adhere to the provisions outlined in Town policies, the Ontario Human Rights Code and any other applicable related statutes;
- iii. Treat every person including other Members, and the public with dignity, understanding and respect for the right to equality and a safe environment free from harassment and discrimination;
- iv. Seek to advance the common good of the community which they serve;
- v. Truthfully, faithfully and impartially exercise their duties to the best of their knowledge and ability; and
- vi. Abide by the guiding principles set out in the Canadian Code for Volunteer Involvement.

The Committee Administration Policy is provided to Town committees and boards as part of their orientation program. A more robust code of conduct for Town committees and boards could be explored in the future, but not recommended at this time.

### Section 5: Access to Information and Confidentiality (revised)

This section has been revised to reflect current provisions of the Municipal Freedom of Information and Protection of Privacy Act. The confidentiality section addresses issues of access and disclosure of confidential and closed session information by Members.

A definition of "confidential information" has been included to provide that certain information is confidential regardless of where/how it comes into the Town's possession, assisting with the Code's enforcement.

### Section 6: Undue Use of Influence (new)

This section outlines standards to ensure Members disclose any pecuniary interests in accordance with the framework set out in the Municipal Conflict of Interest Act. In the review, Council explored the notion of expanding language in the Code to ensure there is no undue use of influence by Members. These expectations are broadly stated in this section.

As Council is aware, the Ministry of Municipal Affairs and Housing is reviewing various municipal legislation, including the Municipal Conflict of Interest Act. It is anticipated that this review will take into consideration definitions and a disclosure process for non-pecuniary conflicts of interest. Until new legislation is passed, it is not recommended that Council consider its own process for the disclosure of non-pecuniary interests to ensure consistency with this legislative regime.

#### Section 8: Gifts (revised)

Provides Members with a framework for the receipt of gifts up to \$500 and various exceptions to the definition of gift in this section. The potential for a gift registry was not the preferred approach of Council.

#### Section 11: Participation in Local Community Groups Events and Charitable Organizations (new)

Provides acknowledgment of Member involvement in charitable fundraising and establishes a framework for Member participation in community groups and events. The proposed framework provides guidelines for Members that work collaboratively with other policies and procedures noted in this section.

#### Section 12: Harassment (revised)

Language has been revised to better reflect anti-harassment legislation, including a definition of "harassment". The current process includes that any complaints of harassment will be investigated in accordance with the procedures set out in the "Harassment and Discrimination Free Workplace Policy". The procedure involves complaints against Councillors being referred to the Workplace Violence & Harassment Coordinator, in consultation with the CAO, to an outside third party to investigate the matter and provide a report. As Councillors are not considered employees and have no reporting relationships, wording in this policy can create confusion.

The Integrity Commissioner has the power to sanction and would be better suited to conduct an investigation concerning complaints of harassment involving Members through the Code. The Code has been amended to reflect this best practice and the Harassment and Discrimination Free Workplace Policy will be amended and brought forward for approval, at a later date.

#### Section 14: Social Media (new)

Council indicated a preference to include Code provisions for Members conduct on social media. The recommended framework provides immediate guidance, and other guidelines or policies may be brought forward over time, given this rapidly expanding medium.

#### Section 15: Role of the Integrity Commissioner (new)

This section outlines the role of the Integrity Commissioner relative to the Act and the Code.

#### Section 16: Complaint Process (new)

Outlines the procedure for the submission of Code complaints, mirroring the interim complaint procedure approved by Council. The complaint procedure is the same whether initiated by the public, staff or Council. In accordance with previous Council direction, Member to Member complaints have been prohibited, although it is noted that this is a variance from the practice in place in most municipalities. The procedure requires that the alleged violation shall have taken place within six months of filing the complaint with the Integrity Commissioner. In addition, complaints filed during the regular election can be investigated by the Integrity Commissioner but not reported to Council until after the election has concluded to ensure that this process is not used by individuals to unfairly disadvantage incumbents.

To the extent possible, complaints will be sent directly to the Integrity Commissioner to ensure the complaints handling process is arms-length and independent of the Town. In addition, timeframes have been set out with respect to complaints and service level expectations subject to the Public Inquiries Act, 2009.

#### Section 17: Penalties (new)

This section includes the two penalties which may be recommended to Council by an Integrity Commissioner: a reprimand or a suspension of a Member's pay for up to 90 days as provided for in the Act.

Although the Code review considered other remedial measures to be recommended by the Integrity Commissioner (e.g., a request for an apology or a request to return Town property if it has been used improperly), based on legal advice it is recommended that these be excluded given the Ministry of Municipal Affairs and Housing's review of the Municipal Act and lack of specific case law.

#### Section 18: Interpretation (new)

This section has been included to assist in the interpretation of the Code.

## ITEMS FOR FUTURE CONSIDERATION

Through the Code review, there were numerous items identified for consideration either through the consultant's scan of evolving best practices, resident feedback or potential amendments to corporate policies identified through the Code review. These items have been identified below by theme/subject area and include staff comments:

### 1. Council to consider creating an Accountability and Transparency Committee

Source/Background	Rationale/Explanation	Comments
Included in consultant's scan of evolving practices for Council's consideration.	An advisory committee composed of some Members of Council, residents, business and community organizations among other stakeholders with a mandate to provide advice and guidance to Council on accountability and transparency matters.	<p>Currently, policies and practices related to accountability and transparency are brought forward to Council as a whole through Committee of the Whole and Council, with opportunity for public input.</p> <p>In tandem with the development of Council's strategic priorities, Council undertook a review and established its advisory committee structure for the term. Council direction would be required to consider such a committee.</p>

### 2. Develop an informal program of ongoing ethics education and guidance to Members of Council

Source/Background	Rationale/Explanation	Comments
Included in consultant's scan of evolving practices for Council's consideration.	<p>The program may include:</p> <ul style="list-style-type: none"> <li>- Guidance from the Integrity Commissioner, which may form a part of an ethics "question and answer" manual or other resource documents;</li> <li>- Share guidelines including an "integrity test" which may help decision making</li> <li>- Periodic professional articles related to ethics matters to be provided to Members of Council and included with more formal orientation program;</li> </ul>	Future opportunities and measures in support of an informal program of ongoing ethics education and guidance to Members of Council will be considered by staff in consultation with the Integrity Commissioner.



	- Share opportunities for professional development opportunities offered through the Association of Municipalities of Ontario, Institute of Public Administration of Canada and private training firms.	
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3. Council to consider measures which respond to lobbying of Members of Council

Source/Background	Rationale/Explanation	Comments
Included in consultant's scan of evolving practices for Council's consideration, resident feedback.	<p>The Act provides for a public disclosure and enforcement regime for lobbying activities involving Members of Council.</p> <p>Municipalities may also adopt lobbying measures for specific circumstances, such as large dollar value procurement of goods and services.</p>	Lobbying measures for specific circumstances such as large dollar value procurement of goods and services will continue as required.

4. Include penalties in the Code should Council breach closed meeting rules in the Act and the Town's Procedure Bylaw

Source/Background	Rationale/Explanation	Comments
Resident feedback.	<p>An Integrity Commissioner (as provided for in the Act) is authorized to investigate alleged breaches of the Code by individual Members of Council.</p> <p>The Act requires the appointment of a Closed Meeting Investigator who investigates whether Council closed the meeting to the public in accordance with the Act and the Town's Procedure By-law. The Closed Meeting Investigator provides a report on their investigation and makes associated recommendations to</p>	Since the Act provides for a specific closed meeting compliance regime, the Code and an Integrity Commissioner do not have jurisdiction in circumstances where Council (as a whole) has breached closed meeting rules in the Act and the Town's Procedure By-law.

	Council. The statutory regime does not provide for the Closed Meeting Investigator to recommend penalties (i.e., is educational in nature, not punitive).	
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5. Requirement for minimum qualifications related to the performance of the Integrity Commissioner

Source/Background	Rationale/Explanation	Comments
Resident feedback	Recruitment of current Integrity Commissioner followed a request for proposals process (which included qualification and experience requirements akin to those appointed to the judiciary) and senior staff evaluation team managed at arms-length from Council. It should be noted there is no specific certification requirement or regulatory body associated with individuals serving as Integrity Commissioners, although many are members of the Law Society of Upper Canada, including the current Integrity Commissioner.	Evaluation of contract performance is a standard part of the procurement process and will be undertaken at regular intervals.

6. Amendments to corporate policies as a result of the Code review

Source/Background	Rationale/Explanation	Comments
Code review	Amend Use of Corporate Resources and Election Campaign Activities Policy to provide a stronger framework for candidates and Members of Council regarding appropriate behavior and use of corporate resources for any election related or campaign purposes, including provincial, federal and political party elections.	Key required amendments to corporate policies to come forward by Q2, 2016 and ongoing, with input from the Integrity Commissioner.

	<p>Amend Harassment and Discrimination Free Workplace Policy to clarify process relative to the Code.</p> <p>Amend other related policies, in consultation with Integrity Commissioner.</p>	
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### BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

A Council Code of Conduct relates to the Well-equipped and managed link of the Town's Community vision – implementing policy and processes that reflect sound and accountable governance.

### CONSULTATION

In addition to public consultation, staff also consulted with an external expert legal advisor, Mr. David Nitkin, the Town's Integrity Commissioner and various senior staff.

### HUMAN RESOURCE CONSIDERATIONS

There are no human resource considerations associated with this report.


### BUDGET IMPACT

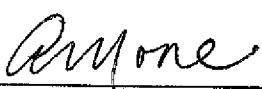
An amount of \$10,000.00 has been included in the 2016 budget for the Integrity Commissioner fees. Staff will continue to monitor and review this line item and advise Council should any changes to the level of funding be required. Any unallocated funds will be carried forward in a reserve to assist in offsetting potential costs in future years.

### CONTACT

For more information on this report, contact Lisa Lyons, Deputy Town Clerk at 905 953-5300, extension 2203 or by email at [llyons@newmarket.ca](mailto:llyons@newmarket.ca).

  
 Lisa Lyons  
 Deputy Town Clerk

  
 Andrew Brouwer  
 Director of Legislative Services/Town Clerk

  
 Anita Moore  
 Commissioner of Corporate Services



## CORPORATION OF THE TOWN OF NEWMARKET

## BY-LAW NUMBER 2007-42

## A BY-LAW TO ESTABLISH A COUNCIL CODE OF CONDUCT.

WHEREAS Section 223.2 of the *Municipal Act*, 2001, S.O. 2001, c.25 as amended provides that municipalities may establish codes of conduct for members of council of the municipality and of local boards of the municipality;

AND WHEREAS Section 9 of the *Municipal Act* 2001, S.O. 2001, c. 25 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act* or any other *Act*;

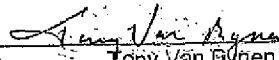
AND WHEREAS Council of the Corporation of the Town of Newmarket wishes to update all current codes of conduct in order to enhance Newmarket's existing policies and by-laws;

AND WHEREAS Council directed staff to prepare a Council Code of Conduct that reflects current legislation and recent amendments to the *Municipal Act*;

AND WHEREAS Council has reviewed and discussed the Council Code of Conduct;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket that the attached Council Code of Conduct be hereby adopted.

ENACTED THIS 16TH DAY OF APRIL, 2007.

  
Tony Van Bynen, Mayor

  
Anita Moore, Town Clerk



# Corporate Policy Manual

Sub Topic:

Policy No. CO.1-01

Topic: Council Code of Conduct

Covered: All Members of Council and members appointed by Council to its various advisory, ad hoc and special purpose committees and to task forces and working groups

Section: CAO

Council Adoption Date:

Effective Date:

Revision No:

Date:

## Policy Statement & Strategic Plan Linkages

Members of Council have the privilege of attaining elected office. That privilege carries significant responsibilities and obligations. In order to strengthen the role of Council and to enhance public trust, this Code of Conduct supplements existing provincial conflict of interest legislation and municipal by-laws that govern their conduct.

## Purpose

The Code of Conduct for Council Members and related policies identifies the Town of Newmarket's expectations of Members of Council and establishes guidelines for appropriate conduct to ensure that:

- The decision-making process of Town Council is open, accessible and equitable;
- Decisions are made through appropriate channels of government structure;
- Public office is not to be used for personal gain;
- Newmarket residents have confidence in the integrity of their local government;
- The conduct of Members of Council is of the highest standard; and
- There is fairness and respect for differences and a duty to work together for goodwill and common good.

## **PART I - DEFINITIONS**

**"Members of Council"** includes Members appointed by the Council to its various advisory, ad hoc, special purpose committees and to task forces and working groups.

**"Confidential information"** means any information that is of a personal nature to Town employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Corporation or could give the person to whom it is disclosed an advantage. Confidential information includes, but is not limited to the following information:

- Disclosed or discussed at a meeting of Council, Committee of the Whole or Standing Committee, or part of a meeting of Council, Committee of the Whole or Standing Committee that is closed to the public;
- That is circulated to Members of Council and marked "confidential"; or
- That is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information:
  - Personnel matters;
  - Information about suppliers provided for evaluation which might be useful to other suppliers;
  - Matters relating to the legal affairs of the Town;
  - Sources of complaints where the identity of the complainant is given in confidence;
  - Items under negotiation;
  - Schedules of prices in contract tenders; and
  - "Personal Information" as defined in the *Municipal Freedom of Information and Protection of Privacy Act*

**"Conflict of Interest"** involves decisions made and/or actions taken by a Member of Council in respect of matters in which he or she has a direct or indirect personal or pecuniary interest.

**"Fraud"** involves any intentional or deliberate act to deprive any person or the public of property, money or valuable security by deception or other unfair means. This includes fraud as defined in the *Criminal Code*.

**"Gifts, Hospitality, Benefits & Perquisites"** are items, invitations, articles, services, offers, entrance fees or vouchers of more than a nominal value.

**"Pecuniary Interests"** are interests that have a direct or indirect financial impact. They include:

- any matter in which the member has a financial interest
- any matter in which the member is a shareholder, director or senior officer of or holds a controlling interest in a corporation that does or does

not offer its securities to the public, and such corporation has a financial interest

- any matter in which the member is a partner of a person or is in the employment of a person that has a financial interest; and
- any matter in which a parent, spouse, same sex partner or any child of the member has a financial interest, if known to the member.

**"Personal Interests"** involve forms of advantage other than financial **such as** seeking an appointment, promotion or transfer within the Corporation on behalf of a family member.

**"Theft"** is the act of fraudulently taking or converting to one's use, or the use of another person, anything, with the intent to deprive the true owner of it, or a person who has a special property or interest in it. This includes theft as defined in the *Criminal Code*.

**"Town Property"** includes, but is not limited to all real property, municipal vehicles, equipment, material, supplies, intellectual property and documents.

## **PART II – RESPONSIBILITIES OF MEMBERS OF COUNCIL**

### **2. Confidentiality**

Members shall not disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office except when required by law to do so.

All information, documentation or deliberation received, reviewed or taken in closed session of Council and its committees is confidential until the matter ceases to be confidential, as determined by Council

Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential.

Confidential information that comes to the attention of Members does not belong to them. It is property that belongs to the Town.

The obligation to keep information confidential is a continuing obligation even if the Member ceases to be a Member of Council

Members have the same access rights to municipal information as any other resident in the Town, unless the information relates specifically to a matter before Council. Requests for information should be referred to the appropriate staff to be addressed as either an informal request for access to municipal records, or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

Members should be aware of the Council – Staff request for Information and Use of Resources Policy, CAO.1-01.

### **PART III – CONFLICT OF INTEREST**

Members will follow and respect both the letter and spirit of the provisions of the *Municipal Act 2001* and the *Municipal Conflict of Interest Act*, as amended from time to time.

Members shall not:

- engage in any activity, financial or otherwise, which is incompatible with the proper discharge of his or her official duties;
- use any influence of office for any purpose other than official duties;
- act as a paid agent before Council or any committee, board or commission of Council;
- solicit, demand or accept the services of any civic employee for re-election purposes during hours in which the employee is in the paid service of the Town;
- use any confidential information gained in the execution of office for any purpose other than official duties;
- give preferential treatment to any person or organization in which the member has a pecuniary interest;
- influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which the member has a financial interest;
- use Town property or Town employees for personal gain or for any private purpose.

### **PART IV – STAFF RELATIONS**

Members shall acknowledge and respect the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate objectives, without undue influence from any individual member or group of members.

In addition, members shall acknowledge and respect the fact that staff carry out directions of Council as a whole and administer the policies of the Town, and are required to do so without any undue influence from any individual member or group of members.

Members shall not publicly criticize individual staff members in a way that cast aspersions on their professional competence and credibility.

### **PART V – GIFTS, HOSPITALITY, BENEFITS & PERQUISITES**

Members may only receive tokens, mementos, souvenirs, or similar gifts that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office. Tokens, mementoes, souvenirs or gifts with a value of greater than nominal value, if accepted shall be the property of the Town.



Members may accept hospitality or entertainment if the offer is infrequent and appropriate to the occasion.

Nothing in this section prevents the receipt of:

- Personal gifts, benefits, rewards, commissions or advantages from any person or organization not connected directly or indirectly with the performance or duties of office.

Members may also accept the following:

- Political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- Food and beverages at banquets, receptions, ceremonies or similar events;
- Services provided without compensation by persons volunteering their time;
- Food, lodging, transportation and entertainment provided by other levels of governments or by other local governments, boards or commissions;
- A reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;

Any gifts, benefits, hospitality or perquisites that exceed these guidelines shall be returned with an explanation of this Code of Conduct.

#### **PART VI – POLITICAL ACTIVITY**

Members must ensure compliance with all legislative requirements related to political activity including the use of Corporate Resources and Election Campaign Activities Policy Corp.1-01.

#### **PART VII – USE OF TOWN PROPERTY**

In accordance with the Council-Staff request for Information and Use of Resources Policy, CAO. 1-01, and the Use of Corporate Resources and Election Campaign Activities Policy Corp. 1-01, members must respect Town property. Members may only use Town property or services for activities connected with the discharge of official duties or associated community activities having the sanction of Council or its committees.

Members shall not obtain financial gain from the use of Town developed intellectual property, computer programs, technological innovations, or other kinds of property, while an elected official or thereafter. All such property remains the exclusive property of the Town.

### **PART VIII – CONDUCT AT MEETINGS**

During Council, Committee of the Whole and other ad hoc, special purpose, task force or working group meetings, members shall conduct themselves with decorum and in accordance with the Town's Procedure By-law in effect from time to time. Respect for delegations and for fellow members and staff requires that all members show courtesy and not distract from the business of Council during presentations and when other members have the floor.

### **PART IX – HARASSMENT**

Harassment of another Council member, staff or any member of the public is prohibited under the Ontario Human Rights Code. In accordance with the Ontario Human Rights Code and the Harassment and Discrimination Free Workplace Policy 5-01, it is the policy of the Town that all persons be treated with dignity and respect in the workplace in an environment free of discrimination and of personal and/or sexual harassment. Harassment, whether it occurs inside or outside the workplace but is related to the work environment or activities of elected office is considered to be harassment and is inappropriate behaviour for the purpose of this Code of Conduct.

Harassment includes, but is not limited to any behaviour, conduct or comment by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the *Ontario Human Rights Code* as amended.

Any complaints of harassment will be investigated in accordance with the procedures set out in the Harassment and Discrimination Free Workplace Policy 5-01. In the event that a resolution of the complaint is not achieved, any Member may request that the complaint be dealt with in accordance with PART XI of this policy.

### **PART X – ENCOURAGEMENT OF RESPECT FOR THE TOWN AND ITS BY-LAWS**

Members shall at all times encourage the public to abide by the Town's bylaws and policies.

### **PART XI – COMPLIANCE WITH CODE OF CONDUCT**

- a) Where an alleged contravention of any provision of this Code of Conduct occurs, the complainant shall attempt to meet with the Member of Council to discuss the complaint and resolve the issue. In the event that a meeting between the complainant and the Member of Council is not possible, or fails to resolve the issue, the complainant may request a meeting with the Member of Council, the Chief Administrative Officer, an independent third party and/or the Mayor to discuss the complaint and

resolve the issue. In the event that a meeting with the Member of Council, the Chief Administrative Officer, an independent third party and/or the Mayor fails to resolve the issue, the complainant may request the CAO to investigate the complaint and/or to arrange for a neutral third party to mediate the dispute.

- b) In the event the dispute can not be resolved after exhausting the steps set out in paragraph (a) above, Council may hold a special meeting of Committee of the Whole to determine if the member has breached this policy. The meeting shall be closed to the public.
- c) The member alleged to have contravened this Code of Conduct shall be given opportunity to address Council at the meeting and will be provided with sufficient time to explain the alleged breach. The Member shall be permitted to introduce evidence including witnesses to support his or her position, and shall have the option of attending with legal counsel. Should the Member have legal counsel, then the Town shall have the right to legal representation.
- d) Should Council determine after hearing all evidence that the member has breached a provision of the Code of Conduct, Council shall report that such a determination has been made, and at a special open Council session called for that purpose, pass a Resolution that shall require the member to appear before an in-camera Committee of the Whole meeting to be sanctioned. The Sanction shall be ratified by Resolution at a session of Council
- e) Should Council feel that a breach of this Code of Conduct may have occurred, but is unable to make a determination, Council may pass a resolution requesting a judge of the Ontario Superior Court of Justice to conduct an investigation of the member's conduct under Section 274(1) of the *Municipal Act, 2001* as amended. Should the Judge determine that a breach has occurred, the penalties for such breach shall be determined in accordance with this Policy.
- f) Sanctions include, but are not limited to demand of an apology, a public reprimand or a combination of any of the above.
- g) All sanctions under this Code of Conduct will be fair and in keeping with the severity of the breach, giving due regard to the member's previous conduct.
- h) Nothing in this Section restricts or attempts to countermand a member's legal right to challenge a decision of Council through established legal channels.

## **PART XII - IMPLEMENTATION**

Upon the adoption of this Code of Conduct and thereafter at the beginning of each term, Members of Council will be expected to sign two copies of the Code of Conduct (one for themselves and one for the Clerks' Office) to convey to each other and all stakeholders that they have read, understood and accept it.

A Code of Conduct component will be included as part of the orientation workshop for each new Council, or Council appointed advisory, ad hoc, special purpose committee, task force or working group.

Members of Council are expected to formally and informally review their adherence to the provisions of this Code on a regular basis or when so requested by Council.

### **CROSS REFERENCES**

*Municipal Act 2001* S.O. 2001, c. 25 as amended

*Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50

*Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56

Administration By-law 1990-92 as amended

Procedural By-law 2004-167 as amended

Harassment & Discrimination Free Workplace Policy 5-01

Internet and E-mail Acceptable Use Policy and Guidelines, IT.1-01

Employee Code of Conduct

Council – Staff Request for Information and Use of Resources Policy, CAO.1-01

Use of Corporate Resources and Election Campaign Activities, Corp.1-01

*Criminal Code of Canada*, R.S. 1985, c. C-46

### **SIGNATURE**

The undersigned Member of Council hereby acknowledges that they have read, understood and accept this Code of Conduct.

\_\_\_\_\_  
Signature of Member of Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name



## CORPORATION OF THE TOWN OF NEWMARKET

### BY-LAW NUMBER 2016-xx

#### A BY-LAW TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL

**WHEREAS** section 223.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may establish codes of conduct for members of council of the municipality and of local boards of the municipality;

**AND WHEREAS** the Council of The Corporation of the Town of Newmarket considers it appropriate and proper to establish a code of conduct (the "Code") and to enact a by-law in this regard and to repeal By-law 2007-42.

**THEREFORE BE IT ENACTED** by the Council of The Corporation of the Town of Newmarket that the following Code of Conduct for Members of Council is hereby adopted:

#### Code of Conduct for Members of Council

##### PREAMBLE

Members of Council have the privilege of attaining elected office. That privilege carries significant responsibilities and obligations with respect to the public trust. In order to strengthen the role of Council and to enhance public trust with respect to the obligations of its Members, this Code is established to govern and regulate the ethical conduct of all Members and also supplements existing superior legislation, municipal by-laws and related corporate policies that govern Members' conduct.

##### 1. PURPOSE AND PRINCIPLES

- 1.1 The Code sets out and identifies the Town's expectations for its Members and establishes rules for appropriate conduct.
- 1.2 The public expects the highest moral and ethical standards of conduct from Members that it elects. The behaviour and actions of Members is expected to reflect the principles of accountability, transparency, and public trust. Adherence to these standards will protect and maintain the Town's reputation and integrity.
- 1.3 The key statements of principle that underline this Code are as follows:
  - (a) the decision-making process of Council is open, accessible and equitable, and respects the Town's governance structure;
  - (b) public office is not to be used for the personal financial benefit of any Member;
  - (c) Town residents should have confidence in the integrity of their local government and of their Members;
  - (d) the conduct of each Member is of the highest standard; and
  - (e) the conduct of each Member demonstrates fairness, respect for differences and a duty to work with other Members together for the common good.

## 2. DEFINITIONS

### 2.1 In this Code:

- (a) "**Clerk**" means the Clerk of the Town or his/her designate;
- (b) "**Code**" means the "Code of Conduct for Council Members" as established by Council pursuant to section 223.2 of the *Municipal Act, 2001*;
- (c) "**Committee**" means a committee, board, task force or other body constituted and appointed by Council, including the Committee of the Whole, with the exception of the Newmarket Public Library Board;
- (d) "**complainant**" means a person who has filed a complaint in accordance with this Code;
- (e) "**complaint**" means a written objection filed with the Integrity Commissioner pursuant to this Code respecting a Member;
- (f) "**confidential information**" means any information in the possession of or received in confidence by the Town that the Town is prohibited from disclosing or has decided to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation, which includes but is not limited to:
  - (i) information that is disclosed or discussed at a meeting that is closed to the public pursuant to subsection 239(2) of the *Municipal Act, 2001*;
  - (ii) information that is given verbally in confidence in preparation for or following a meeting that is closed to the public pursuant to subsection 239(2) of the *Municipal Act, 2001*;
  - (iii) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*;
  - (iv) advice that is subject to solicitor-client privilege or information that concerns litigation or potential litigation, including matters before administrative tribunals, affecting the Town;
  - (v) information that concerns any confidential matters pertaining to personnel, labour relations, or items under negotiation;
  - (vi) price schedules in contract tenders and information about suppliers provided in contract tender or requests for information, quotation or proposal submissions, if such information is given in confidence, implicitly or explicitly;
  - (vii) sources of complaints where the identity of the complainant is given in confidence;
  - (viii) information circulated to Members and marked "confidential"; or
  - (ix) any information lawfully determined by the Council to be confidential or required to remain or be kept confidential by legislation or order.
- (g) "**Council**" means the Council of the Corporation of the Town of Newmarket;
- (h) "**municipal election period**" means the period commencing on the first day nominations may be filed and ending on voting day.

- (i) "gift" means cash, fees, admission fees, advances, vouchers, invitations, objects of value, services, offers, personal benefits, travel and accommodation or entertainment that are provided to a Member, that could be seen to be connected directly or indirectly to the performance of the Member's duties;
- (j) "harassment" or "harass" involves engaging in a course of behaviour, comment or conduct, whether it occurs inside or outside the work environment, that is or ought reasonably to be known to be unwelcome. It includes but is not limited to any behaviour, conduct or comment by a Member that is directed at or is offensive to another person:
  - i) on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status, as well as any other grounds under the provisions of the *Human Rights Code*; or
  - ii) which is reasonably perceived by the recipient as an intention to bully, embarrass, intimidate or ridicule the recipient.
- (k) "Integrity Commissioner" means the Integrity Commissioner appointed by Council pursuant to section 223.3 of the *Municipal Act, 2001*;
- (l) "meeting" means any legally-constituted meeting of Council or a Committee;
- (m) "Member" means a Member of Council of the Town and includes the Mayor, Deputy Mayor and Regional Councillor;
- (n) "social media" means web-based applications and on-line forums that allow users to interact, share and publish content such as text, links, photos, audio and video;
- (o) "staff" means direct employees of the Town whether full-time, part-time, contract (including employees of staffing agencies) or casual (including students and volunteers);
- (p) "Town" means the Corporation of the Town of Newmarket; and
- (q) "Town property" includes, but is not limited to, all real and personal property, facilities, vehicles, equipment, supplies, services, staff, documents, intellectual property, computer programs or technological innovations belonging to the Town.

### 3. CONDUCT OF MEMBERS

A Member shall at all times conduct themselves with propriety, decency and respect and with the understanding that all members of the public, other Members and staff are to be treated with dignity, courtesy and empathy whether the interaction is part of standard Town business or whether the activity arises in a private environment, in recognition that a Member is always a representative of the Town and of their elected office. A Member shall at all times conduct themselves with decorum and in accordance with the Town's Procedure By-law during any meetings and in a manner that demonstrates fairness, respect for individual differences, and an intention to work together for the common good and in furtherance of the public interest.

### 4. COMPLIANCE WITH THE CODE OF CONDUCT

- 4.1 This Code applies to every Member.
- 4.2 A Member shall:

- (a) observe and comply with every provision of this Code, as well as all other policies and procedures adopted or established by Council affecting the Member, acting in his or her capacity as a Member;
- (b) respect the integrity of the Code and inquiries and investigations conducted under it; and
- (c) co-operate in every way possible in securing compliance with the application and enforcement of the Code.

4.3 No Member shall:

- (a) 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; or
- (b) obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective.

**5. ACCESS TO INFORMATION AND CONFIDENTIALITY**

5.1 A Member shall:

- (a) have the same access rights to municipal information as any other resident of the Town, unless the information relates specifically to a matter before Council. Any request for information from a Member that does not relate to their duties and obligations as a Member shall be referred to the appropriate staff to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*;
- (b) comply with the "Council - Staff Request for Information and Use of Resources Policy"; and
- (c) have a continuing obligation to keep information confidential, even if the Member ceases to be a Member.

5.2 No Member shall:

- (a) obtain access, or attempt to gain access, to confidential information in the custody or control of the Town except in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*;
- (b) 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;
- (c) 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; or
- (d) disclose or discuss, through written, electronic or verbal communication, to any individual or corporate third party, any information that has been or will be discussed at a closed session meeting of Council or a Committee until such time that Council or a Committee has determined or has been advised by staff that the matter, or any part of the matter, can be made public subject to review by the head or designate under the *Municipal Freedom of Information and Protection of Privacy Act* or if directed to do so by a court.



## 6. UNDUE USE OF INFLUENCE

- 6.1 A Member shall comply with the requirements of the *Municipal Conflict of Interest Act*.
- 6.2 No Member shall:
- (a) use the influence of his or her office for any purpose other than the exercise of his or her official duties and responsibilities;
  - (b) engage in any business or transaction, or have a financial or other personal interest, that is incompatible with their official duties with the Town;
  - (c) knowingly place themselves in a position where they are under obligation to any person who might benefit from special consideration or who might seek preferential treatment;
  - (d) give preferential treatment to any person in the performance of their official duties;
  - (e) derive personal benefit from confidential information that they have acquired during the course of fulfilling their official duties with Council;
  - (f) knowingly place themselves in a position where they could, by virtue of being a Member, influence decisions or contracts from which they or any personal contact or family member could derive any direct or indirect benefit; and
  - (g) participate in any manner so as to influence or attempt to influence any decision on the part of Council, Committee or the Town where the Member has a conflict of interest.

## 7. STAFF RELATIONS

- 7.1 A Member shall respect staff and acknowledge that staff is required to provide objective advice while remaining neutral, carry out directions of Council as a whole, and administer the policies of the Town without undue influence from any Member.
- 7.2 No Member shall:
- (a) publicly criticize staff, whether collectively or individually;
  - (b) maliciously or falsely impugn the professional or ethical reputation of any staff;
  - (c) compel staff to engage in partisan political activities, or subject staff to threat or discrimination for refusing to engage in such activities; or
  - (d) use their authority or influence to threaten, intimidate, or coerce staff or improperly interfere the lawful exercise of the duties of staff.

## 8. GIFTS

- 8.1 No Member shall accept a gift which they intend to keep for themselves, with a fair market value of greater than \$500.
- 8.2 A gift with a fair market value of greater than \$500, if accepted, shall be considered the property of the Town.
- 8.3 Notwithstanding Section 8.1, the following exceptions are applicable:

- (a) gifts received as an incident of protocol or social obligation that normally accompany the responsibilities of elected office;
- (b) gifts that are not connected directly or indirectly with the performance or duties of office;
- (c) compensation authorized by law;
- (d) a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with a legitimate municipal purpose;
- (e) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- (f) services provided without compensation by persons volunteering their time;
- (g) a suitable memento of a function honouring the Member or the Town;
- (h) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political sub-divisions of them, and by the federal government or the government of a foreign country;
- (i) food, beverages and/or admission fees provided by banquets, receptions or similar events if attendance is the result of protocol or social obligation consistent with the responsibilities of office, and the person extending the invitation has done so infrequently and that person or a representative of the organization is in attendance; and
- (j) communications to offices of a Member including subscriptions to newspapers and periodicals.

## **9. USE OF TOWN PROPERTY**

### **9.1 A Member shall:**

- (a) only use Town property for activities connected to their official duties; and
- (b) comply with the procedures outlined in the "Council-Staff Request for Information and Use of Resources Policy" and the "Use of Corporate Resources and Election Campaign Activities Policy".

### **9.2 No Member shall obtain any personal financial gain or advantage from the use of Town property.**

## **10. POLITICAL ACTIVITY**

### **10.1 A Member shall comply with all legislative requirements related to political activity including the *Municipal Elections Act, 1996*, the *Elections Act* and any other election statute, and the "Use of Corporate Resources and Election Campaign Activities Policy".**

## **11. PARTICIPATION IN LOCAL COMMUNITY GROUP EVENTS AND CHARITABLE ORGANIZATIONS**

### **11.1 A Member shall be entitled to:**

- (a) organize, establish, participate in and support community groups and charitable organizations and associated events, subject to the limitation in Section 11.3(a);

- (b) hold positions within community groups and charitable organizations;
- (c) solicit donations or sponsorships on behalf of community groups or charitable organizations, as long as such solicitation, donation or sponsorship is not reasonably seen to be an improper use of the Member's influence and does not conflict with any position or decision of the Council;
- (d) hold positions on the governing boards of community groups and charitable organizations, and be subject to the published rules of each applicable organization;
- (e) use their discretionary expense budget to support community groups and events and ward events, subject to the terms of the "Councillor Expense Policy and the Guidelines for Discretionary Expenses";
- (f) use corporate resources including staff for organizing and supporting events and meetings that are connected to their official duties subject to the "Council-Staff Request for Information and Use of Resources Policy" the "Use of Corporate Resources and Election Campaign Activities Policy" and other applicable policies and procedures; and
- (g) use their name or position and title to identify ward events and ward meetings or endorse other community events, but must seek Council approval for the use of their name or position and title for any charitable event where fundraising activities occur.

11.2 Members shall:

- (a) ensure that any funds, goods, or services received for community group or charitable organization events are not used for any other purpose or for any purpose that conflicts with any position or decision of the Council; and
- (b) respect the need for transparency with respect to their involvement in community groups, community events and local charities and perform their community service in a manner that promotes public confidence.

11.3 No member shall:

- (a) provide any financial support to any community group for any purpose that conflicts with any position or decision of the Council.

**12. HARASSMENT**

- 12.1 No Member shall harass any other Member, any staff, or any member of the public.
- 12.2 Any complaint of harassment involving a Member shall be referred to the Integrity Commissioner and the complaint will be dealt with in accordance with Section 16 of this Code.

**13. ENCOURAGEMENT OF RESPECT FOR THE TOWN AND ITS BY-LAWS**

- 13.1 No Member shall use the influence of their office for any purpose other than for the lawful exercise of their official duties and for municipal purposes.
- 13.2 A Member shall:
  - (a) encourage the public, prospective contractors and lobbyists, and their colleagues to abide by the Town's by-laws and policies, including this Code; and

- (b) accurately communicate the decisions of Council even if they disagree with the majority decision of Council, and by so doing affirm the respect and integrity in the decision-making processes of Council.

#### **14. SOCIAL MEDIA**

##### **14.1 A Member shall:**

- (a) adhere to all applicable legislation as well as guidelines, protocols, codes and by-laws regarding privacy, social media use, and freedom of information; and
- (b) always identify themselves without any attempt to cover, disguise or mislead as to their identity or status as an elected representative of the Town when using social media.

##### **14.2 No Member shall:**

- (a) post or publish confidential information concerning Council business. For the purposes of this Section, confidential information also includes unpublished materials, documents and statistics, current and future projects, financials, facts and figures, and other pertinent details; or
- (b) use social media to publish anything that is dishonest, untrue, malicious, obscene, constitutes harassment, is defamatory, or misleading in any way.

#### **15. ROLE OF THE INTEGRITY COMMISSIONER**

15.1 The Town shall appoint an Integrity Commissioner under section 223.3 of the *Municipal Act, 2001* who is an independent officer and who will report directly to Council and be responsible for carrying out his or her functions in accordance with the *Municipal Act, 2001* and any other functions assigned by Council, in an independent manner.

15.2 The Integrity Commissioner may provide some or all of the following services as determined by the Town:

- (a) education and training;
- (b) investigation of a complaint, including a decision not to investigate and a summary dismissal of a complaint;
- (c) investigation reports and recommendations, including periodic, interim or final reports and annual reports;
- (d) information to the public regarding the Code and the obligations of Members under the Code and other ethical guidelines or policies; and
- (e) proactive guidance upon request from Council or a Member.

15.3 Notwithstanding the services in Section 15.2 above, the Integrity Commissioner shall not provide advice or opinions to any Member with respect to the *Municipal Conflict of Interest Act*.

#### **16. COMPLAINT PROCESS**

16.1 Subject to Section 16.11, a complaint that a Member has contravened the Code may be initiated by any person, including a member of the public, a member of staff or Council, as follows:

- (a) a complaint shall be made in the form attached as Appendix A and is to be sent directly to the Integrity Commissioner by mail, e-mail, fax or

courier (if required, pre-addressed and postage paid envelopes are available from the Legislative Services Department);

- (b) a complaint shall be made in writing and must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);
- (c) the alleged violation shall have taken place within six (6) months of filing the complaint with the Integrity Commissioner;
- (d) a complaint shall include:
  - (i) an explanation, with specific reference to sections of the Code, as to why the issue raised is alleged to be a contravention of the Code;
  - (ii) any evidence in support of the allegation; and
  - (iii) any witnesses in support of the allegation must be identified.

16.2 A complaint may be filed during the municipal election period regarding a Member seeking re-election and can be investigated by the Integrity Commissioner but no report shall be made to Council until the new term of Council commences.

16.3 The Integrity Commissioner shall undertake an initial review of a complaint that has been filed and shall determine whether the matter relates to non-compliance with the Code or other corporate policy applying to Members. If the matter is covered by other legislation or if the complaint is not alleging a contravention of the Code or such a policy, the Integrity Commissioner shall have no power or jurisdiction to investigate or otherwise deal with the complaint and will accordingly, advise the complainant in writing as follows:

- (i) **Criminal Matter** – if the complaint relates to an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
- (ii) **Municipal Conflict of Interest** – if the complaint relates to a matter under the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with his or her own legal counsel; and
- (iii) **Municipal Freedom of Information and Protection of Privacy** – if the complaint relates to a matter that under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be referred to the Clerk.

16.4 The Integrity Commissioner may dispose of a complaint on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may report same to Council. The Integrity Commissioner may also seek further information or clarification from the complainant and shall endeavour to apprise the complainant of subsequent steps and the processing of the complaint and any ensuing investigation.

16.5 If the Integrity Commissioner is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the complaint in a summary manner. The Integrity Commissioner shall advise the complainant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.

- 16.6 If the Integrity Commissioner has decided to commence an investigation of a complaint (except where otherwise required by the *Public Inquiries Act, 2009*, if applicable), the Integrity Commissioner shall provide a copy of the complaint and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within ten (10) days. The Integrity Commissioner may provide the response from the Member to the complainant with a request for a written reply within ten (10) days.
- 16.7 The Integrity Commissioner shall review the written responses and may, if necessary discuss the matter with anyone that the Integrity Commissioner considers is relevant to the complaint. The Integrity Commissioner may access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act, 2001* and may access any Town workplace relevant to the complaint, including any documents or records under the custody or control of the Town.
- 16.8 Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.
- 16.9 Upon conclusion of a complaint investigation, the Integrity Commissioner shall:
- (a) issue a report to Council on the findings of the investigation and, where there has been a contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and
  - (b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the complainant at the same time as the report becomes public.
- 16.10 The Integrity Commissioner's report on a complaint shall be placed on an agenda for consideration at a public meeting of the Committee of the Whole or Council, in accordance with the Procedure By-law, as determined by the Clerk in consultation with the Integrity Commissioner.
- 16.11 A complaint may not be initiated by a Member who believes another Member has contravened the Code.

## **17. PENALTIES**

- 17.1 Upon receipt of a final report and the recommendations of the Integrity Commissioner, Council may, where the Integrity Commissioner has determined there was a violation of the Code, impose either of the following two (2) penalties:
- (a) a reprimand; or
  - (b) suspension of remuneration paid to the Member in respect of his or her services as a Member for up to ninety (90) days.

## **18. INTERPRETATION**

- 18.1 This Code shall be interpreted as follows:
- (a) the headings in the Code form no part of the Code but shall be deemed to be inserted for convenience of reference only;
  - (b) all changes in number and gender shall be construed as may be required by the context;

- (c) the reference to any Town official shall be deemed to include the Town official who performs the duties of such referenced person from time to time, including their delegates;
- (d) the reference to Integrity Commissioner shall be deemed to include any person who has been delegated powers and duties by the Integrity Commissioner in accordance with subsection 223.3(3) of the *Municipal Act, 2001*;
- (e) the reference to a statute or regulation, except as may be otherwise provided, shall be deemed to include such statute or regulation as may be amended or re-enacted from time to time or its successor legislation, and, in each case, the regulations made from time to time pursuant thereto;
- (f) the reference to a by-law, resolution, policy or guideline made, enacted, established or adopted by the Town, including the Code, except as may be otherwise provided, shall be deemed to include such by-law, resolution, policy or guideline as may be amended or re-enacted from time to time or its successor by-law resolution policy or guideline made, enact, established or adopted from time to time; and
- (g) if a court of competent jurisdiction should declare any section or part of a section of this Code to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this Code and it is hereby declared that the remainder of this Code shall be valid and remain in force.

**ENACTED THIS 29th DAY OF FEBRUARY 2016.**

\_\_\_\_\_  
Tony Van Bynen, Mayor

\_\_\_\_\_  
Andrew Brouwer, Town Clerk

**Appendix A to By-law 2016-xx Code of Conduct for Members of Council  
Code Complaint Form**

I \_\_\_\_\_ hereby request the Integrity Commissioner for the Town of Newmarket to conduct an inquiry pursuant to Part V.1 of the *Municipal Act, 2001* about whether or not the following member(s) of Council has (have) contravened the Council Code of Conduct applicable to the member(s):

---

I have reasonable and probable grounds to believe that the above member(s) has (have) contravened the Council Code of Conduct by reason of the following (please insert date, time and location of conduct, including the Rules contravened, together with particulars and names of all persons involved, and of all witnesses, and information as to how they can be reached, (if more space is required, please attach additional pages as needed):



I hereby request the Integrity Commissioner to conduct an inquiry pursuant to the provisions of section 223.4 of the *Municipal Act, 2001* with respect to the above conduct.

Attached are copies of documents and records relevant to the requested inquiry. Please mail, fax, e-mail, or otherwise deliver this request to:

Robert J. Swayze  
Integrity Commissioner  
Town of Newmarket  
20736 Mississauga  
Road Caledon, Ontario  
L7K 1M7

Phone: 519 942 0070  
Fax: 519 942 1233  
E-mail: [robert.swayze@sympatico.ca](mailto:robert.swayze@sympatico.ca)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Requester)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Cell: \_\_\_\_\_

E-mail: \_\_\_\_\_