



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;

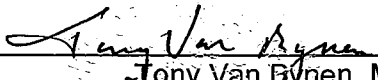
AND WHEREAS Council of the Corporation of the Town of Newmarket wishes to update all current codes of conduct in order to enhance Newmarket's existing policies and by-laws;

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.


Jony 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