

**BY-LAW NUMBER 073 – 2011
OF THE
CORPORATION OF THE MUNICIPALITY OF MEAFORD**

**BEING A BY-LAW TO ESTABLISH A CODE OF CONDUCT FOR
THE MUNICIPALITY OF MEAFORD AND TO RESCIND BY-LAW
097-2008 AS AMENDED AND BY-LAW 088-2007**

WHEREAS Section 11 of the *Municipal Act 2001, S.O. 2001, c. 25*, as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations and of its local boards and their operations; and

WHEREAS Section 223.2(1) of the *Municipal Act 2001, S.O. 2001, c.25*, as amended, authorizes municipalities to establish codes of conduct for members of the council of the municipality and of local boards of the municipality; and

WHEREAS Council of the Corporation of the Municipality of Meaford deems it expedient to establish a Code of Conduct for Council;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF MEAFORD ENACTS AS FOLLOWS:

1. That this Council does hereby adopt the Code of Conduct, attached hereto as Schedule "A".
2. That Schedule "A" forms part of this by-law.
3. That By-laws 097-2008 and 088-2007 are hereby rescinded.
4. This By-law shall come into force and take effect upon being passed by Council.

READ a FIRST, SECOND and THIRD time and finally passed this 26th day of September, 2011.

Original signed by

Francis Richardson, Mayor

Original signed by

Pamela Fettes, Clerk

**SCHEDULE "A" TO
BY-LAW 073-2011 of the Corporation of Municipality of Meaford
Code of Conduct
for
Members of Council of The Municipality of Meaford**

A. PURPOSE OF THE CODE OF CONDUCT

The Code of Conduct sets minimum standard for the behaviour of Council members in carrying out their functions. It has been developed to assist Council to:

1. Understand the standards of conduct that are expected of them and the law that applies in relation to these standards;
2. Fulfill their duty to act honestly and exercise reasonable care and diligence;
3. Act in a way that enhances public confidence in local government; and
4. Identify and resolve situations which might involve a conflict of interest or a potential misuse of position and authority.

B. STANDARDS OF CONDUCT

1. Members of Council shall at all times seek to advance the common good of the community which they serve.
2. Members of Council shall truly, faithfully and impartially exercise the office to the best of their knowledge and ability.
3. Members of Council shall refrain from behaviour that could constitute an act of disorder or misbehaviour. Specifically, Members of Council shall refrain from conduct that:
 - Contravenes Federal or Provincial statutes or legislation, the *Municipal Act*, Municipal by-laws, associated regulations, and the Municipality's Code of Conduct.
 - Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others.
 - Prejudices the provision of a service or services to the community.

C. CONDUCT TO BE OBSERVED

1. Release of Confidential Information

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with at *closed* meetings or that is determined to be confidential by the CAO, Clerk or as specifically declared by Council. A Member of Council shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the *closed* deliberations to anyone, unless expressly authorized by Council or required by law to do so.

- a. Members of Council shall not release information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, Chapter M.56*.

- b. Members of Council shall not release information subject to solicitor-client privilege or labour relations – personnel matters unless expressly authorized by Council or required by law to do so.
- c. Members of Council shall not misuse confidential information (information that they have knowledge of by virtue of their position as Councillor that is not in the public domain, including e-mails and correspondence from other Members of Council or third parties) such that it may cause detriment to the Corporation, Council or others, or benefit or detriment to themselves or others.
- d. All in closed materials shall be collected at the end of each closed session by the Clerk or CAO.

2. Foster Respect for Decision-making Process

All Members of Council shall accurately and adequately communicate the attitudes and decisions of the Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered. Council Members must also encourage public respect for the Municipality and its by-laws.

3. Release of Information to Public and Media

Members of Council acknowledge that official information related to decisions and resolutions made by Council will normally be communicated to the community and the media by the Council as a whole or the Mayor as Head of Council or by those so designated. Members of Council will accurately communicate and support the decision reached by majority of Council, even if they disagree with the outcome.

4. Acceptance of Gifts

Council Members shall comply with the *Municipal Conflict of Interest Act* and must not accept a gift or personal benefit that is connected with their performance of the duties of office. This does not include gifts or personal benefits received as a matter of the protocol or social obligations that normally accompany the responsibility of office.

5. Engaging in Incompatible Activity

Members of Council shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of official duties in the public interest.

Without limiting the generality of the foregoing, Members of Council shall not:

- i. Use any influence of office for any purpose other than official duties;
- ii. Act as an agent before Council or any committee, board or commission of Council;
- iii. Solicit, demand or accept the services of any corporation, employee, or individual providing services to the municipality at a time in which said person or corporation is being paid by the municipality;

- iv. Use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;
- v. Place themselves in a position of obligation to any person or organization which might benefit from special consideration or may seek preferential treatment;
- vi. Give preferential treatment to any person or organization in which a Member or Members of Council have a financial interest;
- vii. Influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which a Member or Members of Council have a financial interest; and
- viii. Use Corporate materials, equipment, facilities or employees for personal gain or for any private purpose (including election related activities).

6. **Conflict of Interest**

It is the responsibility of individual Councillors to ensure that they are aware and trained in the application of the *Municipal Conflict of Interest Act*. The onus is on the Councillor to identify a conflict of interest, and shall take the appropriate action to identify the existence of a conflict in favour of his/her public duty. Municipal Staff will at no time offer a legal opinion to a Member of Council with respect to their real or perceived conflict of interest.

- a. A conflict exists when an individual is, or could be, influenced, or appear to be influenced by a personal interest, financial (pecuniary) or otherwise, when carrying out their public duty. Personal interest can include direct or indirect pecuniary interest, bias, pre-judgement, close mindedness or undue influence.
- b. Council members must appropriately resolve any conflict or incompatibility between their personal interests and the impartial performance of their public or professional duties in accordance with statutory requirements. When considering whether or not a conflict exists, it is important to consider whether there are any grounds for a reasonable person to think that a conflict exists.

Recognizing that it is impossible to anticipate all possible conflicts that may arise during a Member's term of office and, those conflicts may not be only pecuniary in nature, it is generally advisable to be as open as possible. It is not enough that a conflict not exist, it must also be seen by taxpayers not to exist.

The following principles should be used as a guide (refer to *Municipal Conflict of Interest Plus a Handbook by Forbes and Conant*):

- i. In making decisions, always place the interests of the taxpayers first and, in particular, place them before the interests of colleagues on Council, staff, friends, or family.
- ii. Always interpret the phrase "Conflict of Interest" in the broadest possible terms.
- iii. A factor which could be considered a conflict by taxpayers should be treated as a conflict and be disclosed by the member of Council.
- iv. If in doubt, it is better to disclose a situation.

- v. It is the responsibility of individual Councillors to obtain independent legal advice with respect to any situation that might arise whereby there is a potential for a conflict of interest.
- vi. It is considered a breach of this policy to require or to attempt to burden staff members to assist in the determination of a conflict of interest for individual Councillors.

7. Avoidance of Waste

Members of Council shall avoid waste, abuse and extravagance in the provision or use of public resources, and shall expose fraud and corruption of which the Member of Council is aware.

8. Representing the Community

Members of Council shall make every effort to participate diligently in the activities of the committees, boards, commissions and advisory committees to which they are appointed.

9. Employment of Council Relatives/Family Members

- i. No Member of Council shall attempt to influence the outcome, or to influence any municipal employee to hire or promote a member of the Mayor's, Deputy Mayor's or Councillor's family.
- ii. No Member of Council shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any member of his or her family.
- iii. No Member of Council shall supervise a family member, or be placed in a position of influence over a family member.
- iv. No Member of Council shall attempt to use a family relationship for his or her personal benefit or gain.

10. Transparency & Openness in Decision Making and Member's Duties

Members of Council shall endeavour to conduct and convey Council business and all their duties in an open and transparent manner. Closed session discussions shall be kept confidential pursuant to applicable legislation.

11. Conduct Respecting Staff

- i. No Member of Council shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
- ii. No Member of Council shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering in staff duties, including the duty to disclose improper activity.
- iii. Members of Council shall be respectful of the role of staff, recognizing staff operates to provide unbiased and politically neutral information to Council.
- iv. No Member of Council shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff. All

Members of Council shall show respect for the professional capacities of the staff.

- v. Members of Council shall fulfill their roles as set out in the *Municipal Act* and respect the role of staff in the administration of the business affairs. All administrative matters shall be brought forward to the CAO for response or action.

D. INTERPERSONAL BEHAVIOUR OF MEMBERS OF COUNCIL

1. Treat Every Person with Dignity, Understanding and Respect

Members of Council shall abide by the provisions of the *Human Rights Code* and, in doing so, shall treat every person, including other Members of Council, corporate employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect for the right to equality and the right to an environment that is safe and free from harassment and discrimination.

2. Not to Discriminate

In accordance with the *Human Rights Code*, Members of Council shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, religious affiliation or faith, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability. "Age", "disability", "family status", "record of offences", "same sex partnership status" shall be as defined in the *Human Rights Code*.

3. Not to Engage in Harassment or Bullying

This section is in accordance with the Municipality of Meaford's *Workplace Violence policy* as amended from time to time, The *Human Rights Code* and any other applicable legislation. Harassment shall mean engaging in a course of vexatious comment or conduct that is known, or ought to be known, to be unwelcome. Bullying is the ongoing health- or career-endangering mistreatment of an employee, by one or more of their peers or higher-ups. Unlikely to involve physical violence, it usually takes the form of psychological abuse. Often, verbal and strategic insults are intended to prevent targets from being successful in their job.

The exercise of performance management tools with respect to corporate employees for legitimate purposes by Council is not harassment or bullying.

4. Protection of Privacy

Councillors shall comply with the *Municipal Freedom of Information and Protection of Privacy Act* at all times. Public comments, discussions and disclosures to the media regarding employees or individuals that breach a persons privacy is deemed to be a contravention of this Code of Conduct.

E. ENFORCEMENT

Detailed protocols for the public to initiate complaints and inquiries with regard to the behaviour of Councillors will be established by Council and set out in writing.

F. PROFESSIONAL DEVELOPMENT

Members of Council shall promote and participate in opportunities for professional development. Council Members are required to stay updated on issues and trends so that they can be as efficient and effective as possible in the carrying out of their duties and responsibilities. 23

G. COMPLAINTS

1. All complaints must be submitted in writing to the Clerk. Each written submission must include the following:
 - a. Complainant name, address and signature; and
 - b. Name of the Member of Council in violation; and
 - c. Code of Conduct violation (specific section(s)); and
 - d. Reason or circumstances explaining nature of complaint and/or violation.
2. The Mayor or Designate may commence an investigation of any potential breach of this Code in response to a written complaint in the following manner:
 - a. Investigate within 30 days of receipt of a formal written request and prepare a written report and recommendation for Council. Additional time, if justified, may be authorized by a resolution of Council; and
 - b. The Mayor or Designate will notify the Clerk and call a Special Meeting of Council to discuss his or her report with Members of Council.

The Mayor or Designate may consult with the Clerk and CAO to obtain legal counsel or any other person as may be required in determining points of law or any other matter.

H. IMPLEMENTATION

1. A Code of Conduct component will be included as part of the orientation workshop for each new Council.
2. The Code of Conduct forms part of the Corporate Policy Manual adopted by Council.
3. Council Members are expected to formally and informally review their adherence to the provisions of the Code on a regular basis.

