

CORPORATION OF THE TOWNSHIP OF MCKELLAR

BY-LAW NO. 2010-11

Being a By-law to adopt a Code of Conduct for Members of Council,
Employees, and Public Office Holders of the Township of McKellar

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 and local boards of the municipality;

AND WHEREAS Council has deemed it expedient to formally adopt a Code of Conduct for Members of Council;

AND WHEREAS Council has deemed it expedient to include sections of the Code of Conduct which are applicable to Township Employees and Public Office Holders;

NOW THEREFORE the Council of the Corporation of the Township of McKellar enacts as follows:

1.0 DEFINITIONS

1.01 In this By-law,

“Code of Conduct” shall mean the Township of McKellar Code of Conduct for Members of Council, Employees, and Public Office Holders;

“Complaint” shall mean a purported contravention of the Code of Conduct;

“Employee” shall mean direct employees of the Corporation of the Township of McKellar, whether full-time, part-time, contract (including employees of staffing agencies) or casual (including students and volunteers). It also includes appointees to Township advisory boards and committees, unless those boards and committees have separate corporate existence;

“Outside Activities” shall mean private activities that are not part of an Employee’s assigned work and are not part of his or her job;

“Private advantage” for the purposes of the Code of Conduct ‘private advantage’ does not include a matter:

- (a) that is of general application or considered to be an interest in common generally with the electors within the jurisdiction of an area; or,
- (b) that concerns the remuneration or benefits of a Member of Council;

“Public Office Holder” shall mean:

- (a) a member of the Township Council and any person on his or her staff,
- (b) an officer or employee of the Township,
- (c) a member of a local board of the Township and any person on his or her staff,
- (d) an officer, director or employee of a local board of the Township, and
- (e) such other persons as may be determined by the Township who are appointed to any office or body by the Township or by a local board of the Township;

“Township Property” shall mean real property (such as land or interests in land), personal property (such as goods and equipment), and other property interests of any kind;

“Workplace” shall mean any premises (whether owned by the Township or otherwise) where the business of the township is being transacted, including vehicles.

2.0 PURPOSES

2.01 The Code of Conduct for Members of Council; Employees; and Public Office Holders; and related Township Policies identifies the Township's appropriate conduct to ensure that:

- the decision making process of Township Council is transparent, accessible and equitable.
- decisions are made through appropriate channels of government structure.
- public office is not used for personal gain.
- the conduct of Members of Council is of the highest standard.
- there is fairness and respect for differences and a duty to work together for goodwill and common good.

3.0 GENERAL PRINCIPLES

3.01 A written Code of Conduct helps to ensure that Employees, Members of Council, Members of Advisory Committees, Members of Local Boards of the Township, and all Public Office Holders share a common basis of acceptable conduct.

3.02 These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate. These standards should serve to enhance public confidence that the Township of McKellar's elected and appointed representatives operate from a base of integrity, justice, and courtesy. Employees and Members of Council are responsible for making honest statements. No member shall make a statement when he or she knows that statement is false. No member shall make a statement with the intent to mislead Members of Council, Employees, or the public.

3.03 The Township's Code of Conduct is a general standard developed for educational purposes that augments the provincial laws and Township policies and by-laws that govern members' conduct. It is not intended to replace personal ethics.

3.04 All members to whom this Code of Conduct applies shall serve their constituents in a conscientious and diligent manner. No member shall use the influence of office for any purpose other than the exercise of his or her official duties.

3.05 Each Member of Council, each Employee, and each Public Office Holder of the Township should endeavour to perform his or her official or job duties with integrity, respecting each other and the public, ensuring confidentiality.

3.06 Attaining an elected position within the community is a privilege which carries significant responsibilities and obligations. Members of Council are held to a high standard as leaders of the community and they are expected to become well informed on all aspects of municipal governance, administration, planning and operations.

4.0 SPECIFIC PRINCIPLES OF THE CODE OF CONDUCT

Although areas of ethical exposure are generally consistent and understood in municipal governance, the following areas and guidelines have been specifically identified as being paramount to the municipal political process:

- 4.01 Roles and Responsibilities
- 4.02 Confidentiality
- 4.03 Communications and Media Relations
- 4.04 Relations with Staff
- 4.05 Gifts, Hospitality and Benefits
- 4.06 Conflict of Interest – Pecuniary Interest

- 4.07 Use of Property
- 4.08 Transparency and Openness in Decision Making
- 4.09 Professional Development
- 4.10 Conduct While Representing the Township
- 4.11 Conduct at Meetings
- 4.12 Alcohol and Drug Use
- 4.13 Harassment
- 4.14 Compliance with the Code – Complaint Protocol
- 4.15 Implementation

4.01 Roles and Responsibilities

This Code of Conduct operates along with and as a supplement to the existing by-laws governing conduct.

Part VI (Practices & Procedures) of the *Municipal Act*, 2001 prescribes the following as the roles of a municipal council, the head of council and the head of council as chief executive officer:

4.01.1 It is the role of Council:

- to represent the public and to consider the well-being and interests of the municipality;
- to develop and evaluate the policies and programs of the municipality;
- to determine which services the municipality provides;
- to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
- to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- to maintain the financial integrity of the municipality; and,
- to carry out the duties of Council under this or any other Act.

4.01.2 It is the role of the head of Council:

- to act as chief executive officer of the municipality;
- to preside over Council meetings so that its business can be carried out efficiently and effectively;
- to provide leadership to the Council;
- to provide information and recommendations to the Council with respect to the role of Council described in Clauses 224.(d) and (d.1) of the *Municipal Act*, 2001;
- to represent the municipality at official functions; and,
- to carry out the duties of the head of Council under this or any other Act.

4.01.3 As chief executive officer of a municipality, the head of Council shall,

- uphold and promote the purposes of the municipality;
- promote public involvement in the municipality's activities;
- act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and,
- participate in and foster activities that enhance the economic, social, and environmental well-being of the municipality and its residents.

4.01.4 Members of Council recognize their mandate incorporates tasks to:

- fairly represent the diversity of community views in developing an overall strategy for the future of the township.
- achieve sound financial management, planning and accountability.
- be aware of and understand statutory obligations imposed on Council as a whole, as well as each individual Member of Council.

4.02 Confidentiality

4.02.1 In their decision making process, Members of Council will have access to information that may be confidential or controversial such as, but not limited to, “Closed Session” meetings.

4.02.2 Confidential Information means any information that is of a personal nature to Township 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 Closed Session meeting of Council.
- that is circulated to Members of Council and marked “Confidential”
- 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: personal matters about an identifiable individual(s); information about suppliers provided for evaluation which might be useful to other suppliers; matters relating to legal affairs of the Township; sources of complaints where the identity of the complainant is given in confidence; items under negotiations; schedules of prices in contract tenders; personal information as defined in the *Municipal Freedom of Information and Protection of Privacy Act*.

4.02.3 Pursuant to the Township’s Procedural By-law and authorized under Section 239 of the *Municipal Act, 2001*, where a matter discussed at an in-camera (closed) meeting remains confidential, no member shall disclose the content of that matter, or the substance of the deliberations of an in-camera meeting.

4.02.4 Members of Council 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.

4.02.5 All information, documentation or deliberations 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.

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

4.02.7 Confidential information that is provided to Members of the Corporation does not belong to them. It is property that belongs to the Township.

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

4.03 Communications and Media Relations

4.03.1 Members of Council will accurately and adequately communicate the attitudes and decisions of Council, even if they disagree with the majority decision of Council.

- 4.03.2** Members shall show respect for the decision making process of Council.
- 4.03.3** No Member of Council shall express his or her personal opinion, in verbal or written form, as representative of Council's position, unless there is a duly executed Council Resolution or By-law supporting said opinion.
- 4.03.4** Information concerning adopted policies, procedures and decisions of the Council shall be conveyed openly and accurately.
- 4.03.5** Confidential information will be communicated only when and after determined by Council.
- 4.03.6** Responses to media enquiries regarding any business related to the Township of McKellar shall occur through either the Clerk Administrator or the Head of Council, or their designates.

4.04 Relations with Employees

- 4.04.1** Members of Council shall acknowledge and respect the fact that Employees work for the Township as a corporate body and are responsible for making recommendations that reflect their professional expertise and corporate objectives, without due influence from any individual member or group of members of Council.
- 4.04.2** In addition, Members of Council shall acknowledge and respect the fact that Employees carry out directions of Council as a whole and administer the policies of the Township. Members of Council shall refrain from using their positions to improperly influence Employees in their duties or functions or to gain an advantage for themselves or others. The Council directs the business of the Township and passes by-laws, or resolutions as appropriate, for decisions adopted by Council.
- 4.04.3** Members of Council shall refrain from publicly criticizing individual Employees in a way that casts aspersions on their professional competence and credibility. The Council should expect a high quality of advice from Employees based on political neutrality and objectivity irrespective of party politics, the loyalties of persons in power, or their personal opinions.

4.05 Gifts, Hospitality and Benefits

- 4.05.1** Members of Council, Public Office Holders, and/or Employees may receive gifts, hospitality, or entertainment that are received only as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office. Any gifts, benefits, or hospitality that exceeds these guidelines shall be returned with an explanation of this Code of Conduct. Gifts, souvenirs, or mementos with a value greater than a nominal value, if accepted, shall be the property of the Township.
- 4.05.2** Members of Council, Public Office Holders, and/or Employees may accept hospitality or entertainment if the offer is infrequent and appropriate to the occasion.
- 4.05.3** Nothing in this section prevents the receipt of personal gifts, benefits, rewards, commissions or compensation from any person or organization not connected directly or indirectly with the performance or duties of office (i.e. full time employment with another organization).
- 4.05.4** Members of Council, Public Office Holders, and/or Employees 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 by a person volunteering his/her time.

- food, lodging, transportation and entertainment provided by other levels of government or boards or commissions.
- a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal offices, associations or agencies.

4.06 Conflict of Interest – Pecuniary Interest

4.06.1 Members of Council will recognize their obligations to follow and respect the provisions of the *Municipal Conflict of Interest Act*.

4.07 Use of Township Property

4.07.1 Members of Council, Public Office Holders, and/or Employees may use Township property or services for activities connected with the discharge of official duties or associated community activities only if they have the sanction of Council or are permitted by Township policies.

4.07.2 No Member of Council, Public Office Holder, and/or Employee shall use for personal or personal business purposes any Township property, equipment, services, supplies, or services of consequence other than for purposes connected with the discharge of Township duties or associated community activities of which Township Council has been advised.

4.07.3 No Member of Council, Public Office Holder, and/or Employee shall bid on nor receive any Township Property that has been offered for sale.

4.07.4 No Member of Council, Public Office Holder, and/or Employee shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties.

4.07.5 Electronic records stored on Township computer systems or equipment are the property of the Corporation of the Township of McKellar. The Township asserts the right to access and monitor records in electronic format.

4.07.6 Members of Council, Public Office Holders, and/or Employees may use identified Township computers, cell phones, and other electronic devices while serving as an elected official or while in the employ of the Township but shall do so for official work-related authorized purposes only. Use of such devices for private or unauthorized purposes is strictly prohibited.

4.08 Transparency and Openness in Decision Making

4.08.1 Members of Council will endeavour to conduct and convey Council business in an open and public manner, other than for those issues that may be discussed in Closed Session permitted by the *Municipal Act, 2001* so that stakeholders can understand the process, logic and rationale which was used to reach conclusions or decisions.

4.09 Professional Development

4.09.1 Members of Council, Public Office Holders, and/or Employees have the opportunity to promote, support, pursue and partake in opportunities for professional development, including but not limited to Federal, Provincial and Municipal conferences, seminars and workshops. Members of Council are encouraged to stay updated on issues and trends so that they can be as efficient and effective as possible in the carriage of their duties and responsibilities.

4.10 Conduct While Representing the Township

- 4.10.1** Members of Council, Public Office Holders, and/or Employees shall make every effort to participate diligently in the activities of the agencies, boards, committees, etc. to which they are appointed.
- 4.10.2** No Members of Council shall use the influence of their office for any purpose other than for the exercise of their official duties. No Members shall seek or obtain by reason of their office any personal privilege or private advantage with respect to Township services not otherwise available to the general public and not consequent to their official duties.
- 4.10.3** An example of prohibited conduct is the use of one's status to improperly influence the decision of another person to the private advantage of oneself, or one's immediate relative, employees, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence in return for present actions or inaction.
- 4.10.4** Members of Council, Public Office Holders, and/or Employees shall ensure that their personal conduct within the Workplace and elsewhere does not adversely affect:
- their ability to perform their official duties;
 - the ability of other employees to perform their duties; or,
 - public confidence in the official's functions, the organization, or in the integrity of the public sector.
- 4.10.5** Employees should remain neutral in their service to all Council members.
- 4.10.6** Relations between Employees and Employees, and between Employees and Members of Council, and between both Employees and Members of Council and the public, should always be civil and premised on mutual respect. This means that Employees, Members of Council, and all Public Office Holders shall use polite and respectful language at all times while performing their duties.

4.11 Conduct at Meetings

- 4.11.1** During Council, General Committee or any other advisory committee meetings, or working group meetings, Members of Council and Public Office Holders shall conduct themselves with decorum and in accordance with the Township Procedural By-law. Respect for delegations and for fellow Council Members and Employees requires that all members show courtesy and not distract from the business of Council during presentations and when other members have the floor.

4.12 Alcohol and Drug Use

- 4.12.1** While within the Workplace, no use of alcohol is permitted unless the consumption of alcohol occurs at an event approved by the Council at which alcohol is served.
- 4.12.2** While within the Workplace, no use of drugs is permitted.
- 4.12.3** This section shall not apply to alcohol and drug use outside the Workplace, with three exceptions. In each of the following exceptions, the use of alcohol and/or drugs outside the Workplace will be a contravention of this policy:
- If the alcohol and/or drug use negatively affects the performance of the Employee within the Workplace. Without limiting the generality of the foregoing, an Employee's performance will be deemed to have been negatively affected if he or she consumes alcohol and in the opinion of his/her immediate supervisor, comes to work with a smell of an alcoholic

beverage while exhibiting erratic or unusual behaviour, stumbling, difficulty speaking, loss of balance, or lack of coordination;

- If it is a position requirement for a specific position that an Employee shall have no alcohol and/or drugs in his or her system while within the Workplace, and the Employee comes to work or resumes work following a lunch or other break with alcohol and/or drugs in his or her system; or,
- If the Employee operates a Township-owned motor vehicle or dangerous machinery as part of his or her duties, and the Employee comes to work or resumes work following a lunch or other break with any alcohol and/or drugs in his or her system.

4.12.4 Any Employees who have taken alcohol and/or drugs, whether such consumption is allowed or prohibited by the provisions of this section, that might interfere with their ability to operate motor vehicles (where the operation of a motor vehicle is part of the Employee's job duties) or dangerous machinery (where the use of dangerous machinery is part of the Employee's job duties), or otherwise perform their job duties, must advise their supervisor who will be required to take appropriate action.

4.13 Harassment

4.13.1 Harassment of another Member of Council, Employee, Public Office Holder, or any member of the public is prohibited under the *Ontario Human Rights Code*.

4.13.2 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.

4.14 Compliance with the Code – Complaint Protocol

Where an alleged contravention of any provision of this Code of Conduct occurs, the following procedures will be adhered to.

Informal Complaint Procedure

Individuals (i.e. Township Employees, Public Office Holders, members of the public or Members of Council) or organizations who have identified or witnessed behaviour or an activity by a Member of Council that they believe is in contravention of the Code of Conduct for Members of Council, may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the Member of Council that the behaviour or activity contravenes the Code of Conduct;
- (2) encourage the Member of Council to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) advise someone else (e.g. another Member of Council or a senior staff member of the Township) about your concern, your comments to the Member of Council and the response of the Member of Council;
- (5) if applicable, confirm to the Member of Council your satisfaction with the response of the Member of Council, or, if applicable, advise the Member of Council of your dissatisfaction with the response, and;
- (6) consider the need to pursue the matter in accordance with a formal complaint procedure directed to the appropriate personnel.

4.15 Implementation

4.15.1 Upon adoption of this Code of Conduct and thereafter at the beginning of each term of Council, each Member of Council, each Public Office Holder, and each Employee will be expected to sign 2 copies of the Code of Conduct (one for the member and one for the Township records) to convey to each other and all stakeholders that he or she has read and understood it and that he or she will abide by and accept the Township Code of Conduct.

4.15.2 A copy of the Code of Conduct will be posted on the Township’s website.

5.0 SEVERABILITY

The Township intends that any section or sections of this By-law which may be held to be invalid shall be severable from the remainder, and not be deemed to have persuaded or influenced Council to pass the remainder of the By-law.

6.0 REPEAL OF PREVIOUS BY-LAWS

Any and all by-laws contrary hereto or inconsistent herewith be and the same are hereby repealed.

7.0 EFFECTIVE DATE

This By-law shall come into effect on the day of passing.

READ a FIRST and SECOND time this 7th day of June, 2010.

“original signed by David Moore, Reeve”

“original signed by Shawn Boggs, Clerk”

READ a THIRD time, and PASSED IN OPEN COUNCIL this day of June, 2010.

“original signed by David Moore, Reeve”

“original signed by Shawn Boggs, Clerk”