



CORPORATION OF TOWN OF HUNTSVILLE

BY-LAW NUMBER 2009-25

**Being a By-law to adopt a Code of Conduct Policy for Council
and to Repeal By-law 2008-19**

WHEREAS: *Section 8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended*, provides a Municipality has the capacity, rights powers and privileges of a natural person;

AND WHEREAS: a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

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

AND WHEREAS: Part V.1, Accountability and Transparency, *Section 223.2(1) of the Municipal Act, 2001, c.25, as amended*, authorizes a municipality to 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 Huntsville deems it expedient to adopt a Code of Conduct Policy for Council;

NOW THEREFORE the Council of the Corporation of the Town of Huntsville hereby enacts a Code of Conduct for Council, attached hereto as Schedule "A".

1. SEVERABILITY

In the event that section or sections of this by-law thereof are found by a Court of competent jurisdiction to be invalid or ultra vires, such section, sections or parts thereof shall be deemed to be severable, with all other sections or parts of this by-law remaining in the full force and effect.

2. SCHEDULE

THAT the following schedule is attached and forms part of this by-law:

- (a) Schedule "A" - Code of Conduct for Members of Council.

3. REPEAL

That By-law 2008-19 is hereby REPEALED.

4. EFFECTIVE DATE

THAT this By-law shall come into force and take effect upon receiving the final passing thereof.

READ a **FIRST** time and finally this 2nd day of March 2009.

Mayor (Claude Doughty)

Clerk (Kathleen Gilchrist)

READ a **SECOND** and **THIRD** time and finally passed this 2nd day of March 2009.

Mayor (Claude Doughty)

Clerk (Kathleen Gilchrist)



CORPORATION OF THE TOWN OF HUNTSVILLE

SCHEDULE "A"

TO

BY-LAW 2009-25

COUNCIL CODE OF CONDUCT POLICY

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1. PURPOSE

The purpose and intent of this policy is to establish guidelines for ethical and interpersonal standards of conduct for Members of Council by improving the quality of public administration and governance and by encouraging high standards of conduct on the part of all government officials.

- a) Protect the public interest.
- b) Encourage high ethical standards among Municipal Council Members.
- c) Provide a universal understanding of the fundamental rights, privileges, and obligations of Municipal Council Members.
- d) Provides a means for Municipal Council Members to obtain authorization for some contemplated conduct in circumstances where they are uncertain as to the ethical appropriateness of that conduct.
- e) Set out the means of correcting unethical conduct.
- f) Municipal Council Members hold positions of privilege. Therefore, they must discharge their duties in a manner that recognizes a fundamental commitment to the well-being of the community and regard for the integrity of the Corporation.
- g) The importance of Policy:
 - i. ensures equitable treatment of citizens;
 - ii. ensures equitable treatment of employees;
 - iii. communicating corporate priorities to employees;
 - iv. ensuring compliance with statutory requirements;
 - v. minimize liability risks;
 - vi. ensures accountability at all levels;
 - vii. ensures optimal use of available resources;

2. DUTY OF COUNCIL

This Code of Conduct is a public declaration of the principles of good conduct and ethics (standards of behavior) "that we, the Members of the Huntsville Council have decided its' stakeholders could reasonably expect of us as Members of Council to demonstrate in the performance of our responsibilities as elected community representatives".

Attaining an elected position within one's 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. They are also expected to carry out their duties in a fair, impartial, transparent and professional manner. The key stakeholders, although obvious at first, represent a broad base of interests and concerns which require fair and open attention, adjudication and disposition.

These key stakeholders include but are not limited to:

- a) Residents
- b) Ratepayers

- c) Other Members of Council
- d) Staff
- e) Local Boards and Committees
- f) Province of Ontario
- g) School Boards and other Public Agencies
- h) Suppliers
- i) Chambers of Commerce

To assist the Town of Huntsville Council in interacting effectively with all stakeholders, the following obligations are expected of each **Member of Council** :

- a) That they solemnly promise, declare and carry out their responsibilities as prescribed in the oath of office.
- b) That they familiarize themselves with and follow the Procedural By-law for Council and its Committees.
- c) That they follow the provisions of the *Municipal Act, as amended*, and read and follow the *Municipal Conflict of Interest Act*. Under E-laws: <http://www.e-laws.gov.on.ca/index/html>

3. POLICY STATEMENT

Local Government is an open, accessible, and accountable form of government. The relationship of public trust and mutual respect that has evolved between government and the public requires high standards of ethical conduct by municipal Council Members.

4. DEFINITIONS

- a) **Municipal Council Members** – include the Mayor and Members of Council of the Town of Huntsville.
- b) **Public Comment** – disclosures made in a public speech, lecture, radio or television broadcast, in the press or book form.
- c) **Confidential Information** – while the classification of information as “confidential” is a matter of Council discretion whether labeled as confidential or not, disclosure of information will not constitute a breach of the Code of Conduct unless that information is of an inherently confidential nature such as:
 - i. Personal data of employees or others.
 - ii. Records related to internal policies and practices, which if disclosed, may prejudice the effective performance of a municipal operation.
 - iii. Records of a financial nature reflecting information given or accumulated in confidence.
 - iv. Files prepared in connection with litigation and adjudicative proceedings.
 - v. Reports of consultants, policy drafts and internal communications, which, if disclosed, may prejudice the effective operation of the municipality.
- d) **Municipality** – includes the Corporation of the Town of Huntsville.

5. RESPONSIBILITIES

1. Statement of Commitment

We, the Members of the Corporation of the Town of Huntsville Council, are committed to discharging our duties conscientiously and to the best of our ability.

In the performance of our community role we will act with honesty and integrity and generally conduct ourselves in a way that both generates community trust and confidence in us as individuals and enhances the role and image of the Council and local government generally.

In addition to all legislative requirements, we the Members of the Corporation of the Town of Huntsville Council have adopted the requirements of this Code of Conduct and ethics are standards that we will adopt in the performance of our role.

2. Standard of Conduct

- a) Members of Council must not make improper use of information acquired or have improper use of their position as a Member of Council;
- b) Members of Council are to act honestly and with reasonable care and exercise due diligence in the performance and discharge of official functions and duties;
- c) Members of Council shall, at all times, seek to advance the common good of the community which they serve and act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality is not compromised;
- d) Members of Council shall truly, faithfully and impartially exercise the office to the best of their knowledge and ability; and
- e) Members of Council shall perform the functions of office in good faith, honestly and in a transparent manner.

3. Conduct to be observed

a) Statutory Provisions Regulating Conduct

This *Code of Conduct* is supplemental to the existing statutes governing the conduct of members. Five pieces of legislation govern the conduct of Members of Council.

- i. *Municipal Act, 2001, s.223.2(1), as amended;*
- ii. *Municipal Conflict of Interest Act;*
- iii. *Municipal Elections Act, 1996, as amended;*
- iv. *Municipal Freedom of Information and Protection of Privacy Act;* and
- v. the *Criminal Code of Canada* also governs the conduct of Members of Council.

b) Municipal Act 2001, as amended – Legislated Responsibilities

The following are distinct and specialized roles carried out by Council as a whole and by individual Councillors' when performing their other roles. The key requirements of these roles are captured as noted under 3. c).

- c) Role of Council as noted under Section 224. 2006, c. 32, Sch. A, s.99
- (a) to represent the public & to consider the well-being & interests of the municipality;
 - (b) to develop and evaluate the policies and programs of the municipality;
 - (c) to determine which services the municipality provides;
 - (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of the Council;
 - (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
 - (e) to maintain the financial integrity of the municipality; and
 - (f) to carry out the duties of council under this or any other Act.

Role of Head of Council as noted under Section 225. 2006, c. 32, Sch. A, s. 100

- (a) to act as Chief Executive Officer of the municipality;
- (b) preside over Council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to the Council;
- (c.1) without limiting clause (c), to provide information and recommendations to the Council with respect to the role of Council described in 224 (d) and (d.1);
- (d) to represent the municipality at official functions; and
- (e) to carry out the duties of the head of Council under this or any other Act.

Role of Officers and Employees as noted under Section 227. 2006, c.32, Sch. A, s.100

- (a) to implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions;
- (b) to undertake research and provide advice to Council on the policies and programs of the municipality; and
- (c) to carry out other duties required under this or any Act and other duties assigned by the municipality.

4. Confidentiality

Every municipal Council Member must hold in strict confidence all information of a confidential nature acquired in the course of his or her term with the municipality.

Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- a) To use confidential information, which is not available to the general public, and to which Members of Council have access by reason of his/her position with the municipality to further his/her personal interests or the interests of others.
- b) To disclose, either directly or indirectly, release, make public or in any way divulge any such information (verbal or written) or any aspect of the in "Closed Session" deliberations to anyone, unless expressly authorized by Council or required by law to do so.
- c) To disclose to unauthorized persons confidential information to which the Member of Council has access by reason of his/her position as a Member of Council with the municipality.
- d) Council 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 of individuals that breach a person's privacy is deemed to be a contravention of this Code of Conduct.

5. Personal Gain

- a) A Member of Council may not use their position, privileges, or confidential information obtained as the Mayor or Councillor for private gain or to improperly benefit another person.
- b) The Mayor or Councillor may not be a party to or beneficiary under a contract for:
 - i. the provision of goods or services to the municipality; or
 - ii. the performance of any work otherwise than as a Councillor for the municipality;
- c) A Member of Council may not obtain a financial interest in any business of the municipality; or
- d) A Member of Council may not appear on behalf of any other person before the Council or a Committee for a fee or other consideration.

6. Respect the Decision Making Process

All Members of Council shall communicate accurately the decision of Council or Committees, in such a manner that shows respect for the decision making process of Council or Committees whether they agree or not.

7. Conduct Respecting Staff

Only Council as a whole, where applicable, has the authority to approve budget, policy, Committee processes and other such matters. Accordingly, Members shall direct requests outside of Council or Committees approved budgets, process or policy to the appropriate Department Head *or Director*.

- a) Under the direction of the CAO or designate staff serves the Council as a whole and the combined interests of all members as evidenced through the decisions of Council.
- b) Council shall be respectful of the role of staff to advise based on political fairness, and objectivity, and without due influence from any individual member or group of the Council.
- c) No Member of Council shall maliciously or falsely harm the professional or ethical reputation or the prospects or practice of staff. All Members shall show respect for the professional capacities of the staff of the Town of Huntsville.
- d) No Member of Council shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing such activities.
- e) Council shall not use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering with the person's duties including the duty to disclose improper activity.

No Member of Council shall:

- i. maliciously or falsely injure the professional or ethical reputation by spreading malicious rumours;
- ii. cause persistent, excessive nit-picking, unjustified criticism and constant scrutiny;
- iii. exclude or ignore the target;
- iv. refuse to acknowledge the target or his / her contributions;
- v. undermine the target's efforts by setting impossible goals and deadlines; and
- vi. impede or have influence on an employee's effort in advancing, promotions or transfers.

Bullying is the ongoing health or career endangering mistreatment of an employee, by one or more of their peers or high-ups. This takes the form of psychological harassment.

8. Interpersonal Behaviour of Members of Council

a) 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, Committees, Boards, corporate employees, individuals providing services on a contract basis 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.

b) 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, creed, 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*.

c) Not to Engage in Harassment

In accordance with the *Human Rights Code*, harassment shall mean engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

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

- i. make racial, homophobic, sexist or ethnic slurs;
- ii. display pornographic, homophobic, sexist, racist or other offensive or derogatory material;
- iii. make leering (suggestive staring) or other offensive gestures;
- iv. make written or verbal abuse or threats;
- v. vandalize the personal property of others;
- vi. commit physical or sexual assault;
- vii. make unwelcome remarks, jokes, innuendos or taunting statements about a person's physical appearance, racial background, colour, ethnic origin, place of origin, citizenship, ancestry, creed (religion or belief), sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, disability (physical or mental);
- viii. make unwelcome remarks, insulting gestures or jokes which cause embarrassment or awkwardness;
- ix. refuse to converse or interact with anyone because of their racial or ethnic background, colour, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability;
- x. make unnecessary or unwanted physical contact, including touching, patting, or pinching; and
- xi. demand sexual favours or requests.

9. Gifts, Hospitality and other Benefits

The objective of these policies is to ensure that Councillors make Council decisions based on impartial and objective assessment of each situation free from influence of gifts, favours, hospitality or entertainment.

In this policy, gifts, commission, hospitality, reward, advantage or benefit of any kind, may be interchanged and shall be deemed to include all of the aforementioned.

- a) The stipend paid to each Member of Council is intended to fully remunerate Members of Council for service to the Corporation.
- b) Members of Council are prohibited from soliciting, accepting, offering or agreeing to accept any gifts, commission, hospitality, reward, advantage or benefit of any kind, personally or through a family member or business connection, that is connected directly or indirectly with the performance of duties of office or dealings with the municipality or could reasonably be construed as being given in anticipation of future or recognition of past "special consideration".
- c) The above policy does not preclude Members of Council from accepting:
 - i. Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee for speaking at an event or for representing the Corporation at an event;
 - ii. Political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
 - iii. Food and beverages at meetings, banquets, receptions, ceremonies or similar events;
 - iv. Food, lodging, transportation, entertainment provided by other levels of government, by other local governments or by local government boards or commissions;
 - v. A stipend from a board or commission that the Councillor serves on as a result of an appointment by Council;
 - vi. Reimbursement of reasonable expenses incurred in the performance of office;
 - vii. Reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
 - viii. Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office;
 - ix. Services provided without compensation by persons volunteering their time for election campaign.
- d) Where it is not possible to decline unauthorized gifts, hospitality or other benefit, Members of Council shall report the matter to the Chief Administrative Officer. The Chief Administrative Officer may require that the gift be returned to the sender with an acknowledgement of the return and reference to this Code of Conduct or be retained by the Corporation or be disposed for charitable purposes.
- e) Members of Council shall not place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment.

6. BREACH OF POLICY

- a) ***Any member of Council including the Mayor may submit a confidential written allegation of a breach of the Code of Conduct for Council to the Chief Administrative Officer.***
- b) ***The Chief Administrative Officer shall hold the allegation in confidence and shall place the personal matter on the next Regular or Special Meeting of Council Agenda in Closed Session.***
- c) ***When the matter is addressed at the next Council Meeting in Closed Session, the party that is the subject of the allegation may ask to have the matter tabled to allow said party to obtain legal counsel. In such case, a second meeting of Council in Closed Session will be called no sooner than seven (7) days from the date of the above referenced Council Meeting. The Party, so alleged, may then introduce evidence including witnesses and legal counsel to support his or her position.***
- d) Should Council determine that a Member has potentially breached a policy of the Code of Conduct, Council shall rise and report that such a determination has been made and pass a resolution as to the outcome and the consequences for such breach.

The breach shall be ratified by resolution in ***open session*** of Council.

- e) Should Council feel that a breach 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*. Should the Judge determine that a breach has occurred the consequences for such breach shall be determined in accordance with this Policy.
- f) Should a breach occur consequences for such breach may include, but are not limited to, removal from Committee assignments either permanently or for an interim period, barring the Member from attendance at closed session meetings either permanently or for an interim period, "barring" the Member from being circulated/informed of confidential materials/matters, or demand of an apology.
- g) All breach's under this By-Law will be fair and in keeping with the severity of the infraction giving due regard to the individual's previous conduct.
- h) Nothing in this section restricts or attempts to countermand a Councillor's legal right to challenge a decision by Council through established legal channels.

Legal

Indemnification

In accordance with By-law 2008-125 "respecting the protection of all Members of the Council of the Corporation of the Town of Huntsville against liability incurred while acting on behalf of the Town", the following sections of the above noted by-law will apply.

- a) ***Section 4 – Indemnification; and***
- b) ***Section 5 – Manner and Extent of Indemnification***

7. ACKNOWLEDGEMENT

SIGNATURE

The undersigned Member of Council hereby acknowledges receipt of a copy of By-law 2009-25, being the Mayor and Councillors "Code of Conduct By-law".

Signature of Member of Council

Acknowledgement of Receipt of Code of Conduct Policies

Date of Signature

PRINTED NAME

NOTE:

The Member of Council acknowledges that a copy of By-law 2009-25 containing the Code of Conduct Policy for Council was provided to the Member. One signed copy of the "**ACKNOWLEDGMENT**" was returned to the Clerk and the Member of Council retained a complete copy of the By-law.