

THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI

BY-LAW NO. 13-1138

Being a by-law to adopt a Code of Conduct for the Council of the Municipality of Temagami.

WHEREAS under Section 8 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

AND WHEREAS under Section 9 of the Municipal Act, 2001, S.O., 2001, c.25, as amended, 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 under Section 223.2 of the Municipal Act, 2001, S.O. 2001, c.25, as amended a municipality is authorized to establish a code of conduct for members of the council of the municipality;

AND WHEREAS the Council of the Corporation of the Municipality of Temagami deems it desirable to adopt a Code of Conduct for Members of Council;

NOW THEREFORE the Council of the Corporation of the Municipality of Temagami enacts as follows:

1. That the Municipality hereby adopts the Code of Conduct for Members of Council attached hereto as Schedule "A" and forming part of this by-law.
2. That the Clerk of the Municipality of Temagami is hereby authorized to make minor modifications or corrections of a grammatical or typographical nature to the by-law and schedule, after the passage of this by-law, where such modifications or corrections do not alter the intent of the by-law.
3. That this bylaw shall come into force and take effect upon final passing thereof.

Taken as read a first time this 8th day of August 2013.

Read a second and third time and finally passed this 21st day of November 2013.

Mayor

Clerk

Schedule A to By-law 13-1138

The Corporation of the Municipality of Temagami Code of Conduct for Members of Council

1 POLICY STATEMENT

This Code of Conduct is a public declaration of the principles of good conduct and ethics that members of the Council of the Municipality of Temagami have decided its stakeholders could reasonably expect the Members to demonstrate in their performance and responsibilities as elected representatives.

Attaining an elected position within the community is a privilege which carries significant responsibilities and obligations. As leaders in our community, Members of Council are held to high standards of conduct and ethical behaviour. In addition to being well-informed to undertake their policy and decision-making functions effectively, Council members are expected to carry out their duties in a fair, honest, conscientious, diligent, impartial, transparent and professional manner that respects the dignity of individuals and is in accordance with the Human Rights Code and the Charter of Rights and Freedoms (Canada).

2 SCOPE

Members of the Council of the Corporation of the Municipality of Temagami (hereinafter referred to as Members) shall be governed by this code of conduct for the duration of their service as Members. Upon adoption of this Code of Conduct and thereafter at the beginning of each term, Members will be expected to sign two (2) copies of the Code of Conduct (one for the member and one to be retained by the Clerk) to convey to each other and all stakeholders that they have read, understood and accept it. A copy of the Code of Conduct will be included as part of the orientation for all Members. Members 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.

3 PURPOSE

The Code of Conduct for Members of Council and related Policies identify the Municipality's expectations of Members and establishes guidelines for appropriate conduct to ensure that:

- The decision-making process of the Council is transparent, accessible and equitable.
- Independent, impartial decision-making considers the best interests of the entire Municipality as envisioned in the Oath of Office;
- Communications are open, honest, consistent, respectful, consultative and inclusive;
- Private interests, real or perceived, are kept separate from public responsibilities;
- Respect and support for others, including other Council members, members of municipal staff and members of the public, is maintained.

4 COUNCIL ROLES AND RESPONSIBILITIES

Members shall understand the role, responsibility and authority of a member of Council as outlined in the Municipal Act and as may be determined by municipal policy including, but not limited to the following:

4.1 Oath of Office

Members shall uphold the solemn promise and declaration made when appointed to office to:

- a) truly, faithfully and impartially exercise this office to the best of their knowledge and ability;

Schedule A to By-law 13-1138

- b) not receive any payment or reward, or promise thereof, for the exercise of this office in a biased, corrupt or in any other improper manner;
- c) disclose any pecuniary interest, direct or indirect, in accordance with the *Municipal Conflict of Interest Act*; and to
- d) be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second.

4.2 Adherence to Legislation

Members shall be familiar with and follow the provisions of Provincial Legislation and Regulations pertinent to their duties, including, but not limited to the Municipal Act and the Municipal Conflict of Interest Act. Members shall be familiar with and follow the Procedural By-Law and all other applicable municipal by-laws and policies.

4.3 Representation

No Member other than the Mayor shall purport to speak on behalf of Council unless he or she is authorized by the Council to do so.

A Member may express disagreement with a decision of the Council, but shall make it clear that he or she is expressing a personal opinion and/or the opinion of one or more of his or her constituents.

4.4 Conduct at Meetings

Members shall attend and actively participate in all meetings to the best of their ability. When circumstances necessitate absence from a scheduled meeting, the Member shall notify the Clerk in advance of the intended absence. During Council meetings and Advisory Committee meetings, Members shall conduct themselves with decorum and in accordance with the municipality's Procedural By-law. Respect and courtesy will be provided to delegations, fellow members, staff and members of the general public.

4.5 Conflict of Interest – Pecuniary Interest

Members shall be responsible to ensure that they are familiar with the application of the Municipal Conflict of Interest Act, R.S.O. 1990, as amended. Members shall keep their obligations to follow and respect the provisions of the Act. It shall be the responsibility of each Member, not staff, to determine whether they have a conflict or pecuniary interest with respect to matters arising before Council.

4.6 Confidential Information

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with at closed meetings, as authorized by the Municipal Act, or that is determined to be confidential by the Chief Administrative Officer or Clerk, or as specifically declared by Council. Members shall uphold the Confidentiality Agreement entered into with the Municipality of Temagami at the time of their taking office. A copy of said agreement is included as Appendix A of this Code of Conduct.

4.7 Relations with Staff

Members shall acknowledge and respect the fact that staff work for the Municipality 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. In addition, Members shall acknowledge and respect the fact that staff carry out directions of Council **as a whole**, through the Chief Administrative Officer (CAO) and administer the policies of the Municipality. A Member shall refrain from using their position to improperly influence members of staff in their

Schedule A to By-law 13-1138

duties or functions or to gain an advantage for themselves or others. If a Member disagrees with or disapproves of information or advice provided by staff or actions taken by staff acting in good faith, the Member shall ensure that any comments made to this effect in public shall be made in a fair and respectful manner, in such a way as to express disapproval with the outcome, without criticizing staff.

4.8 Use of Municipal Property

Members may only use municipal property or services for activities connected with the discharge of official duties or associated community activities having the sanction of Council or permitted by Municipal Policies.

4.9 Gifts, Hospitality and Benefits

Members may only accept gifts, hospitality or entertainment of a nominal value that could not be reasonably construed as being given in anticipation or recognition of special consideration by the Corporation. Any gifts, benefits, or hospitality that exceeds these guidelines shall be returned with an explanation of this Code of Conduct. Members may accept hospitality or entertainment if the offer is infrequent and appropriate to the occasion.

Nothing in this section prevents the reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations or agencies; or 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).

4.10 Professional Development

Members are encouraged to undergo any training that may be provided for them through the Ministry of Municipal Affairs and Housing, or other in-house training arranged by the Municipality. Members are also encouraged to take advantage of other municipal training related to their office, as deemed appropriate and approved by Council.

5 ENFORCEMENT

5.1 Complaints

A Member of Council, municipal staff or member of the public who has reasonable and probable grounds to believe that a Member of Council has contravened the Code of Conduct for Members of Council, may request that the matter, or complaint be reviewed.

5.2 Must be in Writing

The complaint shall be made in writing to the Chief Administrative Officer (CAO); shall set out the grounds for the belief and the contravention alleged; shall include a supporting affidavit that sets out the evidence in support of the complaint (see Appendix B); shall include the names and contact information of any witnesses, shall include contact information respecting the complainant(s) during normal business hours; and shall be signed by the complainant(s). In every instance the CAO shall provide a copy of the complaint to the member about whom it was made.

The Municipality shall not consider any complaints that are frivolous, mean-spirited, or vexatious (see also section 5.5).

Schedule A to By-law 13-1138

5.3 Allegations of a Minor Nature

For reasonable allegations of infractions of a minor nature, the Chief Administrative Officer shall advise the Mayor and together they shall investigate the matter, including receiving comments from the member about whom the complaint was made. If recommendations regarding the Members' conduct are determined to be warranted, the Mayor shall make said recommendations to the Member, in accordance with the role of Head of Council as prescribed in the Municipal Act. After recommendations are given to the Member, or if no action is warranted, the Mayor and/or CAO shall also advise Council and the complainant(s) of the outcome.

If the complaint is in regard to the Mayor, or if the Mayor is unavailable to act on the complaint within a reasonable amount of time, the Deputy-Mayor shall act in place of the Mayor.

5.4 Allegations of a Serious Nature

For reasonable allegations of infractions of a serious nature, the CAO shall bring the matter to the Mayor and Council. Council shall give the Member the opportunity to respond to the allegation. Then Council shall decide whether or not to exercise its authority under Section 223 of the Municipal Act 2001, as amended (the Act) to appoint an Integrity Commissioner who would be responsible for performing an independent investigation and reporting back to Council. Consideration of whether or not to appoint an Integrity Commissioner to investigate the allegations shall be done in an open council meeting when the matters discussed deal only with the conduct of the member in the course of his or her professional duties as a member of Council and do not fall within the exceptions to the open meeting requirements. In completing his or her investigation and reporting to Council, the Integrity Commissioner shall have the powers and duties, including the duty of confidentiality, as set out in the Act.

5.5 Integrity Commissioner

If an Integrity Commissioner finds that a complaint has been filed that is malicious, frivolous, vexatious, or has no basis in fact, the complainant shall be required to reimburse the Municipality for the Integrity Commissioner's fees and costs associated with the complaint.

Prior to an Integrity Commissioner commencing any investigation, the Complainant(s) will be required to complete the affidavit found in Appendix B to this policy.

5.6 Exception – After Nomination Day in an Election Year

No complaint regarding a Member who is a candidate in an election may be forwarded by the CAO to Council for determination whether or not to commence an investigation by an Integrity Commissioner between Nomination Day and the date of the inaugural meeting of Council in any year in which a regular municipal election will be held. The CAO shall forward any complaint received after Nomination Day to the Council to address at the first regular meeting following the inauguration of the new Council, and shall advise the complainant of this process.

5.7 Penalties

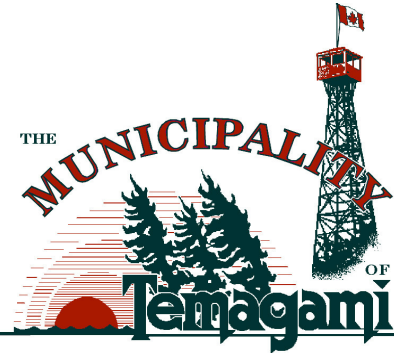
As prescribed in legislation, penalties that may be imposed by the Municipality where the Integrity Commissioner reports that a Member of Council has contravened the Code of Conduct include:

- 1) A reprimand; OR
- 2) Suspension of remuneration for a period of up to 90 days.

Schedule A to By-law 13-1138

Appendix A

**THE CORPORATION OF THE
MUNICIPALITY OF TEMAGAMI**
P.O. BOX 220
TEMAGAMI, ONTARIO P0H 2H0
(705) 569-3421
FAX: (705) 569-2834
E-MAIL: visit@temagami.ca
WEBSITE: www.temagami.ca



Confidentiality Agreement

I _____ (print name) acknowledge that during the course of my service on the Council of the Corporation of the Municipality of Temagami I may be privy to confidential information. This includes details of matters that are dealt with in any meeting or portion of a meeting that is closed to the public in accordance with section 239 of the Municipal Act, 2001 as amended and any information that is to be kept confidential for reasons of privacy covered under the Municipal Freedom of Information and Protection to Privacy Act.

I hereby agree that I will not disclose any confidential information, or use it for purposes other than those required in carrying out the assigned duties of my position. I also agree that the confidentiality of this information is to be maintained both during and after my term on the Council of the Corporation of the Municipality of Temagami.

Signed and witnessed this ____ day of _____, 20__.

Signature of Member of Council _____

Signature of Witness _____

Schedule A to By-law 13-1138

Appendix B

FORM OF AFFIDAVIT

AFFIDAVIT OF

1. I, _____ of the _____
[Name of Individual] [Name of Municipality]

affirm the following:

2. I have personal knowledge of the facts as set out in this affidavit, because _____

[Outline basis of information - eg. was at event with the member of Council, etc.]

3. I have reason to believe that a member of council, _____

[Name of Member of Council]

has contravened section(s) _____

[indicate section number(s)]

of the Code of Conduct for members of Council (Adopted by By-law 13-1138).

4. The key facts that have led me to this belief are as follows:

[Set out the facts briefly-numbered statements are helpful-attach a separate sheet if more space needed]

5. This affidavit is made for the purpose of requesting that this matter be reviewed.

6. I acknowledge that I have read the following section of the Council Code of Conduct.

5.5 Integrity Commissioner

If an Integrity Commissioner finds that a complaint has been filed that is malicious, frivolous, vexatious, or has no basis in fact, the complainant shall be required to reimburse the Municipality for the Integrity Commissioner's fees and costs associated with the complaint.

Prior to an Integrity Commissioner commencing any investigation, the Complainant(s) will be required to complete the affidavit found in Appendix B to this policy.

SWORN [or AFFIRMED] before me at the

_____ of _____
[Name of Municipality]

in the Province of Ontario this ____ Day of _____, 20__

COMMISSIONER OF OATHS

COMPLAINANT

[Signature of Commissioner]
[Stamp]

[Signature of Complainant]