

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

A By-Law to Establish a Code of Conduct for Members of Council

WHEREAS Section 223.2 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may establish codes of conduct for Members of Council of the municipality and of local boards of the municipality;

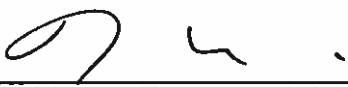
AND WHEREAS the *Modernizing Ontario's Municipal Legislation Act, 2016* (Bill 68) was enacted and includes amendments to the *Municipal Act* and the *Municipal Conflict of Interest Act* coming into force on March 1, 2019;

AND WHEREAS the Council of the Corporation of the Township of Asphodel-Norwood considers it appropriate and proper to establish a code of conduct (the "Code") and to enact a by-law in this regard and to repeal By-Law 2015-04.

NOW THEREFORE BE IT ENACTED by the Council of the Corporation of the Township of Asphodel-Norwood that the following Code of Conduct for Members of Council as detailed in "Schedule A" is hereby adopted:

AND THAT this By-Law comes into force on August 28, 2018.

ENACTED THIS 28 DAY OF AUGUST, 2018



Mayor, Terrence J. Low



Clerk, Candice White

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

Code of Conduct for Members of Council
Schedule "A"

Preamble

Members of Council have the privilege of attaining elected office. That privilege carries significant responsibilities and obligations with respect to the public trust. In order to strengthen the role of Council and to enhance public trust with respect to the obligations of its Members, this Code is established to govern and regulate the ethical conduct of all Members. This code supplements existing Federal and Provincial legislation and Township by-laws and policies that govern Members' conduct but are not limited to the following:

- Criminal Code of Canada
- Municipal Act
- Municipal Conflict of Interest Act
- Municipal Freedom of Information and Protection of Privacy Act
- Occupational Health and Safety Act
- Ontario Human Rights Code
- Planning Act
- Township of Asphodel-Norwood Procedural by-law
- Township of Asphodel-Norwood Workplace Violence and Harassment Policy

1. Purpose and Principles

- 1.1 The Code sets out and identifies the Township's expectations for its Members and establishes rules for appropriate conduct. Members are to represent the public and to consider the well-being and interests of the Township as a corporate body and all of its ratepayers.
- 1.2 The public expects the highest moral and ethical standards of conduct from Members that it elects. The behaviour and actions of Members is expected to reflect the principles of accountability, transparency, and public trust.
- 1.3 Adherence to the standards in the Code will protect and maintain the Township's reputation and financial integrity. It will instill public confidence in the Township's decision making on policies, programs, and operations.
- 1.4 The key statements of principle that underline this Code are as follows:
 - (a) the decision-making process of Council is open, accessible and equitable and respects the Township's governance structure;
 - (b) public office is not to be used for the personal financial benefit of any Member;
 - (c) Township residents should have confidence in the integrity of their local government and of their Members;
 - (d) the conduct of each Member is of the highest standard; and
 - (e) the conduct of each Member demonstrates fairness, respect for differences and a duty to work with other Members together for the common good.

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

2. Definitions

21 In this Code:

- (a) **"Clerk"** means the Clerk of the Township or his/her designate;
- (b) **"Code"** means the "Code of Conduct for Council Members" as established by Council pursuant to Section 223.2 of the *Municipal Act, 2001*;
- (c) **"Committee"** means a committee, local board, task force or other body legally constituted and appointed by Council;
- (d) **"complainant"** means a person who has filed a complaint in accordance with this Code;
- (e) **"complaint"** means a written objection filed with the Integrity Commissioner pursuant to this Code respecting a Member;
- (f) **"confidential information"** means any information in the possession of or received in confidence by the Township that the Township is prohibited from disclosing or has decided to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation, which includes but is not limited to:
 - (i) information that is disclosed or discussed at a meeting that is closed to the public pursuant to subsection 239(2) of the *Municipal Act, 2001*;
 - (ii) information that is given verbally in confidence in preparation for or following a meeting that is closed to the public pursuant to subsection 239(2) of the *Municipal Act, 2001*;
 - (iii) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*;
 - (iv) advice that is subject to solicitor-client privilege or information that concerns litigation or potential litigation, including matters before administrative tribunals, affecting the Township;
 - (v) information that concerns any confidential matters pertaining to personnel, labour relations, or items under negotiation;
 - (vi) price schedules in contract tenders and information about suppliers provided in contract tender or requests for information, quotation or proposal submissions, if such information is given in confidence, implicitly or explicitly;
 - (vii) sources of complaints where the identity of the complainant is given in confidence; or
 - (viii) any information lawfully determined by the Council to be confidential or required to remain or be kept confidential by legislation or order.
 - (ix) Information circulated to Members and marked "Confidential"
- (g) **"Council"** means the Council of the Corporation of the Township of Asphodel-Norwood;

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

- (h) **“gift”** means cash, fees, admission fees, advances, vouchers, invitations, objects of value, services, offers, personal benefits, travel and accommodation or entertainment that are provided to and retained by a Member, that could be seen to be connected directly or indirectly to the performance of the Member’s duties;
- (i) **“harassment”** or **“harass”** involves engaging in a course of behaviour, comment or conduct, whether it occurs inside or outside the work environment, that is or ought reasonably to be known to be unwelcome. It includes but is not limited to any behaviour, conduct or comment by a Member that is directed at or is offensive to another person:
 - i) on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status, as well as any other grounds under the provisions of the Human Rights Code; or
 - ii) which is reasonably perceived by the recipient as an intention to bully, embarrass, intimidate or ridicule the recipient.
- (j) **“Integrity Commissioner”** means the Integrity Commissioner appointed by Council pursuant to Section 223.3 of the *Municipal Act, 2001*;
- (k) **“meeting”** means any legally-constituted meeting of Council, a Committee of Council or a local board;
- (l) **“Member”** means a Member of Council including the Mayor;
- (m) **“social media”** means web-based applications and on-line forums that allow users to interact, share and publish content such as text, links, photos, audio and video;
- (n) **“staff”** means direct employees of the Township whether full-time, part-time, contract (including employees of staffing agencies) or casual (including students and volunteers);
- (o) **“Township”** means the Corporation of the Township of Asphodel-Norwood; and
- (p) **“Township property”** includes, but is not limited to, all real and personal property, facilities, vehicles, equipment, supplies, services, staff, documents, intellectual property, computer programs or technological innovations belonging to the Township.

3. Conduct of Members

31 A Member shall at all times conduct themselves with propriety, decency and respect and with the understanding that all members of the public, other Members and staff are to be treated with dignity, courtesy and respect, recognizing that a Member is always a representative of the Township and of their elected office.

32 Members are responsible for complying with all applicable legislation, regulations, by-laws and policies pertaining to their position as an elected official.

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

33 A Member shall at all times conduct themselves with decorum and in accordance with the Township's Procedure By-law during any meetings and in a manner that demonstrates fairness, respect for individual differences, and an intention to work together for the common good and in furtherance of the public interest.

34 Annually all members of Council shall provide to the Clerk a document relating to them, obtained from the Ontario Provincial Police and known as a Vulnerable Sector Check.

4. Compliance with the Code of Conduct

4.1 This Code applies to every Member. This Code also applies to all members of Committees and Local Boards established by the Municipality in accordance with the *Municipal Act* with necessary modifications applied in the discretion of the Integrity Commissioner.

4.2 A Member shall:

- (a) observe and comply with every provision of this Code, as well as all other policies and procedures adopted or established by Council affecting the Member, acting in his or her capacity as a Member;
- (b) respect the integrity of the Code and inquiries and investigations conducted under it; and
- (c) co-operate in every way possible in securing compliance with the application and enforcement of the Code.

No Member shall:

- (a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person; or
- (b) obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective.

5. Transparency and Openness in Decision Making

Members shall:

- (a) ensure the public has input and receives notice regarding Council's decision making processes in accordance with the Procedure By-law;
- (b) ensure compliance with the *Municipal Act*, *Municipal Conflict of Interest Act*, *Municipal Freedom of Information and Protection of Privacy Act*, and other applicable legislation regarding open meetings, accountability and transparency.

6. Access to Information and Confidentiality

A Member shall:

- (a) only be entitled to have access to information in the possession of the Township that is relevant to matters before Council or a Committee or that is relevant to their role as Members of Council.

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

Otherwise, they have the same access rights to information as any member of the public, and

- (b) have a continuing obligation to keep information confidential, even if the Member ceases to be a Member.

No Member shall:

- (a) obtain access, or attempt to gain access, to confidential information in the custody or control of the Township except in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*;
- (b) disclose, release or publish by any means, including social media any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
- (c) provide to any other person to disclose, release, publish any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
- (d) use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body; or
- (e) disclose or discuss, through written, electronic or verbal communication, to any individual or corporate third party, any information that has been or will be discussed at a closed session meeting of Council or a Committee until such time that Council or a Committee has determined or has been advised by staff that the matter, or any part of the matter, can be made public subject to review by the head or designate under the *Municipal Freedom of Information and Protection of Privacy Act* or if directed to do so by a court.

7. Undue Use of Influence

No Member shall use their status as a Member of Council to improperly influence the actions or decisions of Staff or others to the private advantage of the Member or his or her family, staff, business or otherwise.

8. Staff and Council Relations

81 Only Council as a whole and no single Member including the Mayor, has the authority to direct employees, approve budgets, policy, and other such matters.

82 A Member shall:

- (a) respect staff and acknowledge that staff is required to provide information and objective advice in a neutral manner that reflects their professional expertise and corporate objectives.
- (b) respect and acknowledge that staff carry out directions of council as a whole, and undertake the operations of the Township and administration of the policies of the Township without undue influence from any Member.

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

- (c) Respect the administrative structure and direct any staff performance concerns and operational issues through the Chief Administrative Officer.

83 No Member shall:

- (a) maliciously or falsely criticize staff members in a way that casts harm to their professional competence, integrity or ethical reputation
- (b) compel staff to engage in partisan political activities, or subject staff to threat or discrimination for refusing to engage in such activities; or
- (c) attempt to use their authority or influence to threaten, intimidate, or coerce staff or improperly interfere with the lawful exercise of the duties of staff.

9. Gifts

9.1 No Member shall accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless authorized by one of the exceptions below.

9.2 Notwithstanding Section 9.1 the following exceptions are applicable:

- (a) gifts received as an incident of protocol or social obligation that normally accompany the responsibilities of elected office;
- (b) gifts that are not connected directly or indirectly with the performance or duties of office;
- (c) compensation authorized by law;
- (d) a reimbursement of reasonable expenses incurred in the performance of activities connected with a legitimate municipal purpose;
- (e) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- (f) a suitable memento of a function with nominal value, honouring the Member or the Township;
- (g) food, lodging, transportation and entertainment provided by provincial, regional and local governments or other government agency, and by the federal government or the government of a foreign country;
- (h) food, beverages and/or admission fees provided by banquets, receptions or similar events if attendance is the result of protocol or social obligation consistent with the responsibilities of office, and the person extending the invitation has done so infrequently and that person or a representative of the organization is in attendance.

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

10. Use of Township Property

10.1 A Member shall:

- (a) only use Township property for activities relevant to their role as Members of Council; and
- (b) no Member shall obtain any personal financial gain or advantage from the use of Township property.

11. Political Activity

11.1 Members may not use Township resources for any type of political activity including promoting or opposing the candidacy of any person to elected office in any municipal, provincial and federal campaign.

12. Harassment

12.1 No Member shall harass any other member, any staff, any member of a Committee or Local Board or any member of the public.

13. Encouragement of Respect for the Township and its By-Laws/Policies and Applicable Legislation

13.1 No Member shall:

- (a) use the influence of their office for any purpose other than the lawful exercise of their official duties

13.2 A Member shall:

- (a) encourage members of the public, and their colleagues to abide by the Township's by-laws and policies, including this Code; and
- (b) accurately communicate the decisions of Council even if they disagree with the majority decision of Council, and by so doing affirm the respect and integrity in the decision-making processes of Council.

14. Social Media

14.1 A Member shall:

- (a) adhere to any and all Township policies and guidelines, regarding social media use; and
- (b) always identify themselves without any attempt to cover, disguise or mislead as to their identity or status as an elected representative of the Township when using social media.

14.2 No Member shall:

- (a) use social media to publish anything that is dishonest, untrue, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

15. Role of the Integrity Commissioner

15.1 The Township shall appoint an Integrity Commissioner under Section 223.3 of the Municipal Act, 2001 who is an independent officer and who will report directly to Council and be responsible for carrying out his or her functions in accordance with the Municipal Act, 2001 and any other functions assigned by Council, in an independent manner.

15.2 The Integrity Commissioner shall provide the following services:

- (a) The application of the code of conduct for Members of council and the code of conduct for members of committees and local boards or of either of them.
- (b) The application of any procedures, rules and policies of the municipality, local boards and committees governing the ethical behaviour of Members of council and of local boards or of either of them.
- (c) The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to Members of council, committees or of local boards.
- (d) Requests from Members of council, committees and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
- (e) Requests from Members of council, committees and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
- (f) Requests from Members of council, committees and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.
- (g) The provision of educational information to Members of council, committee members and members of local boards, the municipality and the public about the municipality's code of conduct for Members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

16. Complaint Process

16.1 A complaint that a Member has contravened the Code, a corporate policy or the *Municipal Conflict of Interest Act* (from and after March 1, 2019) may be initiated by any person, any Member of Council, or by Council as follows:

- (a) a complaint shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
- (b) a complaint must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);
- (c) the alleged violation shall have taken place within sixty (60) days of filing the complaint with the Integrity Commissioner;
- (d) a complaint shall include:

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

- (i) an explanation, with specific reference to sections of the Code, as to why the issue raised is alleged to be a contravention of the Code;
 - (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified.
- 162 The Integrity Commissioner shall undertake an initial review of a complaint that has been filed and shall determine whether the matter relates to non-compliance with the Code, other corporate policy applying to Members or *the Municipal Conflict of Interest Act*. The Integrity Commissioner shall have no power or jurisdiction to investigate or otherwise deal with the complaint, if the complaint is not alleging a contravention of the Code or other corporate policy applying to Members or if the complaint relates to the following matters:
- (i) **Criminal Matter** – if the complaint relates to an allegation of a criminal nature consistent with the Criminal Code, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
 - (ii) **Municipal Freedom of Information and Protection of Privacy** – if the complaint relates to a matter under the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be referred to the Clerk.
 - (iii) **Municipal Elections Act** – if the complaint relates to the enforcement of the Municipal Elections Act, the complainant shall be referred to the Compliance Audit Process if the matter relates to campaign finances or to such other avenues of investigation as dictated by that Act.
- 163 If the Integrity Commissioner determines they do not have jurisdiction as described in Section 16.2 the Integrity Commissioner shall advise the complainant in writing accordingly.
- 164 The Integrity Commissioner may dispose of a complaint on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may do so confidentially to the Complainant or may report same to Council. The Integrity Commissioner may also seek further information or clarification from the complainant and shall endeavour to apprise the complainant of subsequent steps and the processing of the complaint and any ensuing investigation.
- 165 If the Integrity Commissioner is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the complaint in a summary manner. The Integrity Commissioner shall advise the complainant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.
- 166 If the Integrity Commissioner has decided to commence an investigation of a complaint (except where otherwise required by the *Public Inquiries Act*, 2009, if applicable), the Integrity Commissioner shall provide a copy of the complaint and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within ten (10) days. The Integrity Commissioner may provide the response from the

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

Member to the complainant with a request for a written reply also within ten (10) days. A Complainant may request that his or her complaint be anonymous and if approved by the Integrity Commissioner, the name will not be released.

- 167 The Integrity Commissioner shall review the written responses and may, if necessary discuss the matter with anyone that the Integrity Commissioner considers is relevant to the complaint. The Integrity Commissioner may access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act, 2001* and may access any Township workplace relevant to the complaint, including any documents or records under the custody or control of the Township.
- 168 Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.
- 169 Upon conclusion of a complaint investigation, the Integrity Commissioner shall:
- (a) issue a report to Council on the findings of the investigation and, where there is a finding of contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and
 - (b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the complainant at the same time as the report becomes public.
- 1610 The Integrity Commissioner's report on a complaint shall be placed on an agenda for consideration at a public meeting of the Committee of the Whole or Council, in accordance with the Procedure By-law, as determined by the Clerk in consultation with the Integrity Commissioner.
- 17. Election Blackout Period**
- 171 No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to Council respecting an investigation, within the election period described within s.223.4 and 223.4.1 of the *Municipal Act*, except as described in those sections.
- 172 For the purposes of the October 2018 regular municipal election, this provision of the Complaint Procedure shall be interpreted as if the provisions of s.223.4 and 223.4.1 as amended were already in force.
- 18. Penalties**
- 181 Upon receipt of a final report and the recommendations of the Integrity Commissioner, Council may, where the Integrity Commissioner has determined there was a violation of the Code, impose either of the following two (2) penalties:
- (a) a reprimand; or
 - (b) suspension of remuneration paid to the Member in respect of his or her services as a Member for up to ninety (90) days.

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD**

BY-LAW No. 2018-44

19. Attestation/Acknowledgement

Upon the adoption of the Code of Conduct and thereafter at the beginning of each Member's term of Council, Members of Council shall sign the Attestation/Acknowledgement attached hereto as Schedule B to convey to each other and all stakeholders that they have read, understand and accept the Code of Conduct requirements.

I understand that I may approach the Integrity Commissioner for binding confidential guidance and advice on interpretation of its provisions to prospective decisions that I might make.

With my signature as a Member of Council, I confirm that I have read, understood and accept this Code of Conduct.

Date:

Name:

Position:

Signature: