

THE CORPORATION OF THE TOWNSHIP OF BONFIELD

BY-LAW NO. 2019-04

Being a By-Law to adopt a Code of Conduct Policy
For Members of Council, Local Boards and Committees

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, C.25, as amended, provides that 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; and

WHEREAS Section 10 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorized municipalities to pass by-laws regarding accountability and transparency of the municipality and its operations; and

WHEREAS Section 223.2(1) of the Municipal Act, 2001, S.O. 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 Township of Bonfield deems it expedient to adopt a Code of Conduct for Council, Local Boards and Committees of Council;

NOW THEREFORE the Council of the Corporation of the Township of Bonfield hereby enacts as Code of Conduct for Members of Council, Local Boards and Committees, attached hereto as Schedule "A".

1. SEVERABILITY

IN THE EVENT section(s) of this by-law are found by a court of competent jurisdiction to be invalid or ultra vires (beyond the powers), such section(s) or parts thereof shall be deemed to be severable, with all other parts of this by-law remaining in full force and effect.

2. SCHEDULE

THE Code of Conduct for Members of Council, Local Boards and Committees attached hereto as Schedule "A" shall form part of this by-law.

THAT the Integrity Commissioner and/or Clerk be authorized to make minor amendments to Schedule "A" as may be appropriate from time to time.

3. EFFECTIVE DATE

THIS By-Law shall come into full force and effect upon receipt of final passing thereof at which time all By-Laws and/or resolutions that are inconsistent with the provisions of this By-Law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-Law.

READ A FIRST AND SECOND TIME THIS 12th DAY OF FEBRUARY 2019.

READ A THIRD TIME AND FINALLY PASSED THIS 12th DAY OF MARCH 2019.

MAYOR

CLERK

THE CORPORATION OF THE TOWNSHIP OF BONFIELD

SCHEDULE "A"

TO

BY-LAW NO. 2019-04

CODE OF CONDUCT FOR MEMBERS OF COUNCIL,

LOCAL BOARDS AND COMMITTEES

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1. AUTHORITY

The Corporation of the Township of Bonfield has established this Code of Conduct in accordance with the Accountability and Transparency of the Municipal Act, 2001, S.O. 2001, c.25, as amended.

2. PREAMBLE

It is the goal of the Corporation of the Township of Bonfield to improve the quality of public administration and governance by encouraging high standards of conduct on the part of the Mayor, Council and Local Boards.

In particular, the public is entitled to expect the highest standards of conduct from its members. In turn, adherence to these standards will protect and maintain the Corporation of the Township of Bonfield reputation and integrity.

Subsection 223.2 of the Municipal Act, 2001 now requires the Township to establish a code of conduct for the Mayor, Council and Local Boards. In response, the Township adopted the following Code of Conduct by By-law No. 2019-04.

It is intended to supplement and be compatible with the laws governing the conduct of members including Procedural By-Law No. 2015-32 sections 12 and 21.

The key statements of principle that underline the Code of Conduct are as follows:

- Members of Council and Local Boards shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- Members of Council and Local Boards shall uphold a high standard of ethical behaviour to ensure that their decision making is impartial, transparent and free from undue influence;
- Members of Council and Local Boards shall refrain from engaging in conduct that would bring the Township or Council into disrepute or compromise the integrity of the Township of Council.
- Members of Council and Local Boards should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of Council and Local Boards are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- Members of Council and Local Boards shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature, and the laws and policies adopted by Council.

3. DEFINITIONS

In the Code of Conduct, the terms “child”, “parent” and “spouse” have the same meanings as in the Municipal Conflict of Interest Act:

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child; and

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

4. STATUTORY PROVISIONS REGULATING CONDUCT

This Code of Conduct operates along with and as a supplement to the existing statutes governing the conduct of members. The following provincial legislation governs the conduct of members of Council:

- the Municipal Act, 2001
- the Municipal Conflict of Interest Act;
- the Municipal Elections Act, 2001; and
- the Municipal Freedom of Information and Protection of Privacy Act.
- the Ontario Human Rights Code
- the Occupational Health and Safety Act

The Criminal Code of Canada also governs the conduct of members of Council.

5. APPLICATION

This Code of Conduct applies to the Mayor, Council and Local Board members.

6. GIFTS AND BENEFITS

No member shall accept a fee, advance, gift, service or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee, advance, gift, service or personal benefit provided with the member's knowledge to a member's spouse, child, or parent, or to a member's staff that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- (a) compensation authorized by law;
- (b) gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law, in the case of members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation and entertainment provided by provincial, and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - attendance serves a legitimate business purpose;
 - the person extending the invitation, or a representative of the organization is in attendance;
 - and the value is reasonable and the invitations infrequent;

In the case of categories (b), (e), (f), and (g), if the value of the gift or benefit exceeds \$100.00, or if the total value received from any one source during the course of a calendar year exceeds \$100.00, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

1. the nature of the gift or benefit;
2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;

5. what the recipient intends to do with any gift; and
6. whether any gift will at any point be left with the municipality

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. If the Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the Township.

Except in the case of categories (a), (c), and (f), a member may not accept a gift or benefit worth in excess of \$300.00 or gifts and benefits from one source during a calendar year worth in excess of \$300.00.

7. CONFIDENTIAL INFORMATION

Confidential information includes information in the possession of or received in confidence by the Township of Bonfield that the Township of Bonfield is either prohibited from disclosing, or is required to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA) or other legislation.

Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The Municipal Act, 2001 allows information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the Township or a local board, and matters authorized in other legislation, to remain confidential. For the purposes of the Code of Conduct, “confidential information” also includes this type of information.

No member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

No member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.

In accordance with Procedural By-law 2015-32, a matter that has been discussed at an in-camera (closed) meeting remains confidential. No member of Council shall disclose the content of such matter, or the substance of deliberations, of the in-camera meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

The following are examples of information that a member of Council must keep confidential:

- items under litigation, negotiation, or personnel matters;
- information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confidence);
- price schedules in contract tender or Request for Proposal submissions if so specified;
- information deemed to be “personal information” under MFIPPA; and
- statistical data required by law not to be released (e.g. certain census or assessment data).

Members of Council should not access or attempt to gain access to confidential information in the custody of the Township unless it is necessary for the performance of their duties and not prohibited by Council policy.

8. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES

No member of Council should use, or permit the use of municipal land, facilities, equipment, supplies, services, staff or other resources (for example, municipal-owned materials, websites) for activities other than the business of the Corporation. Nor should any member obtain personal financial gain from the use or sale of municipal-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the Township of Bonfield.

9. ELECTION CAMPAIGN WORK

Members are required to follow the provisions of the Municipal Elections Act, 2001. No member shall use the facilities, equipment, supplies, services or other resources of the Township (including newsletters and websites linked through the municipal website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on municipal property during regular working hours unless permitted by policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes during hours in which those persons receive any compensation from the Township.

10. IMPROPER USE OF INFLUENCE

No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Examples of prohibited conduct are the use of one's status to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. Also prohibited is the prospect or promise of future advantage through a member's supposed influence within Council in return for actions or inaction.

For the purposes of this provision, "private advantage" **does not include** a matter:

- (a) that is of general application;
- (b) that affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- (c) that concerns the remuneration or benefits of a member of Council.

11. BUSINESS RELATIONS

No member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Township except in compliance with the terms of the Municipal Conflict of Interest Act.

A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

12. CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT

No member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the Township of Bonfield

13. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS

Members shall conduct themselves with decorum at Council and committee meetings in accordance with the provisions of Procedural By-Law No. 2015-32

14. CONDUCT RESPECTING STAFF

Under the direction of the Chief Administrative Officer (CAO), staff serve the Council as a whole, and the combined interests of all members as evidenced through the decisions of Council. Council members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or a faction of Council.

Members of Council shall not give direction to individual staff, save and accept for the CAO who shall receive his or her direction from Council as a whole, or as specifically delegated by the whole of Council to the Mayor, or a committee of Council.

Accordingly, no Council member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff.

No Council member shall compel staff to engage in political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any Council member 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 that person's duties.

15. DISCREDITABLE CONDUCT

All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies and the Occupational Health and Safety Act.

16. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES

Several provisions of this Code of Conduct incorporate policies and procedures adopted by Council. As a result, members of Council, Boards and Committees are required to observe the terms of all policies and procedures established by the Township of Bonfield.

17. REPRISALS AND OBSTRUCTION

Members of Council, Boards and Committees should respect the integrity of the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

18. ACTING ON ADVICE OF INTEGRITY COMMISSIONER

Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter if all the relevant facts known to the member were disclosed to the Integrity Commissioner.

19. COMPLIANCE WITH THE CODE OF CONDUCT

Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the Criminal Code of Canada or for failing to declare a conflict of personal interest under the Municipal Conflict of Interest Act.

Subsection 223.4(5) of the Municipal Act, 2006, authorizes Council to impose either of two penalties on a member of Council following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the Code of Conduct:

1. A reprimand; or
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board for a period of up to 90 days.

Other Actions

The Integrity Commissioner may also recommend that Council or a local board (restricted definition) take the following actions:

1. Removal from membership of a Committee or local board.
2. Removal as Chair of a Committee or local board.
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to Council, the complainant, or both.

20. POLICY REVIEW

A review of this Code of Conduct shall be performed in the year of a Municipal Election in order to maintain its accuracy and applicability. Should the legislation that governs this Code of Conduct change or a recommendation is received from the Township's Integrity Commissioner prior to the year of a Municipal Election, the Code of Conduct shall be reviewed and revised accordingly.



Township of Bonfield

Formal Complain Form – Council Code of Conduct

This form will be used to request an Integrity Commissioner to review a complaint of an alleged contravention of the Code of Conduct.

Submit completed request to: CAO/Clerk
 Township of Bonfield
 365 Highway 531
 BONFIELD ON P0H 1E0

Applicant Information

Last Name:	First Name:
Street Address:	Town/City:
Postal Code:	Phone/Cell #:
Alleged Violator:	E-mail Address:

Details of Alleged Contravention

Date of alleged contravention:
Provision of the Code of Conduct allegedly contravened:

Facts constituting the alleged contravention (use separate page if required):
Names and contact information of any witnesses:
Signature:
Date Prepared (year/month/day):

For Office Use Only

Date Received (year/month/day): _____
Request Number: _____
Comments:

Personal information contained on this form is collected under the authority of the Municipal Freedom of Information and Protection of Privacy Act and will be used for the purpose of responding to a compliant review request.