

THE CORPORATION OF THE TOWNSHIP OF ASSIGINACK

BY-LAW #15-29

BEING A BY-LAW to adopt a Code of Conduct Policy for Council Members and Local Boards

WHEREAS Section 9 of the Municipal Act, S.O. 2001, c.25, as amended, provides that 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;

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 of its local boards and their operations;

AND WHEREAS Section 223.2(1) of the Municipal Act, S.O. 2001, c. 25, as amended, authorizes municipalities to establish codes of conduct for members of the council of the municipality and local boards of the municipality;

AND WHEREAS the Council of the Corporation of the Township of Assiginack deems it expedient to establish a Code of Conduct Policy for Council and local boards of the corporation;

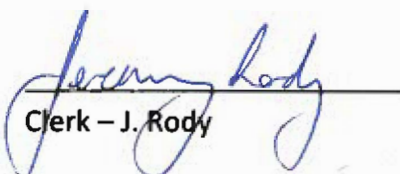
NOW THEREFORE the Council of the Corporation of the Township of Assiginack hereby enacts as follows:

1. THAT in the event that a section or sections of this by-law are found by a Court of competent jurisdiction to be invalid of 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. THAT the Code of Conduct Policy for Council Members and Local Boards herein attached as Schedule "A" to this By-law and forming an integral part of this By-law, be adopted.
3. THAT the Mayor and Clerk are hereby authorized to sign this By-law and to affix the corporate seal thereto.
4. THAT this By-law is enacted upon the third and final reading hereof.

Read for a First and Second time this 3rd day of November, 2015.

Read for a Third and Final time and Enacted in Open Council this 17th day of November, 2015


Mayor - P. Moffatt


Clerk - J. Rody

Seal

MUNICIPALITY



OF ASSIGINACK

CORPORATION OF THE TOWNSHIP OF ASSIGINACK

SCHEDULE "A"

TO

BY-LAW 15-29

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 and Local Boards by improving the quality of public administration and governance and by encouraging high standards of conduct on the part of all government officials.

- a) 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;
- b) 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.
- 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) Encourage high ethical standards among Municipal Council Members.
- f) Set out the means of correcting unethical conduct.
- g) Protect the public interest.

2. DUTY OF COUNCIL

This Code of Conduct is a public declaration of the principles of good conduct and ethics (standards of behaviour) that, the Members of Assiginack 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 Township of Assignack 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*.

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 Township of Assignack.
- 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 of others.
 - ii. Records related to the 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 prejudice the effective operation of the municipality.
- d) **Municipality** – means the Corporation of the Township of Assinack.
- e) **Local Board** – means any individual appointed by Council to a Board, Commission or Committee in accordance with the *Municipal Act 2001, S.O. 2001, Chapter 25*.

5. RESPONSIBILITIES

5.1 Statement of Commitment

We, the Members of the Corporation of the Township of Assinack 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 the 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 Township of Assinack Council have adopted the requirements of this Code of Conduct and ethics as standards that we will adopt in the performance of our role.

5.2 Standard of Conduct

- a) Members of Council must not make improper use of information acquired or make improper use of their positions 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.

5.3 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 in the Municipal Act, 2001, as amended Section 224.*

- (a) to represent the public and to consider the well-being and 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 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 in the Municipal Act, 2001, as amended, Section 225*

- (a) to act as chief executive officer of the municipality;
- (b) to 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 clauses 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 in the Municipal Act, 2001, as amended, Section 227*

- (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.

5.4 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-camera "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 positions 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 or individuals that breach a person's privacy is deemed to be a contravention of this Code of Conduct.

5.5 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 and 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.

5.6 Respect the Decision Making Process

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

5.7 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, as per the protocol identified by the Chief Administrative Officer.

- 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 of the prospects or practice of staff. All Members shall show respect for the professional capacities of the staff of the Township of Assiginack.
- d) No Member of Council shall compel staff to engage in partisan political activities or be subjected to threats of 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 members 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 superiors. This takes the form of psychological harassment.

5.8 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 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, 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 partnerships status, family status, or disability;
- x. make unnecessary or unwanted physical contact, including touching, patting, or pinching; and
- xi. demand sexual favours or requests.

5.9 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 or 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 members 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 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 or 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 Policy to the Chief Administrative Officer. All allegations will be referred to the municipality's solicitor. The solicitor will conduct an investigation and prepare a report for Council.
- b) Should the solicitor 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.
- c) 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.
- d) 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.
- e) All breach's under this By-law will be treated fairly and in keeping with the severity of the infraction giving due regard to the individual's previous conduct.
- f) Nothing in this section restricts or attempts to countermand a Councillor's legal right to challenge a decision by Council through established legal channels.

7. ACKNOWLEDGEMENT

SIGNATURE

The undersigned Member of Council hereby acknowledges receipt of two (2) copies of the Code of Conduct. One signed copy of the "Acknowledgement" to be returned to the Clerk.

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 #15-29 containing the Code of Conduct Policy for Council was provided to the Member. One signed copy of the "ACKNOWLEDGEMENT" was returned to the Clerk and the Member of Council retained a complete copy of the By-law.