



CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2007-43

A BY-LAW TO ESTABLISH AN EMPLOYEE CODE OF CONDUCT.

AND WHEREAS Section 9 of the *Municipal Act* 2001, S.O. 2001, c. 25 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act* or any other Act;

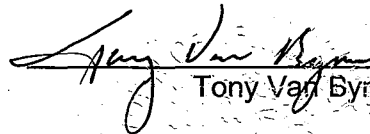
AND WHEREAS Council of the Corporation of the Town of Newmarket wishes to update all current codes of conduct in order to enhance Newmarket's existing policies and by-laws;

AND WHEREAS Council directed staff to prepare a Employee Code of Conduct that reflects current legislation and recent amendments to the *Municipal Act*;

AND WHEREAS Council has reviewed and discussed the Employee Code of Conduct;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Newmarket that the attached Employee Code of Conduct be hereby adopted.

ENACTED THIS 16TH DAY OF APRIL, 2007.


Tony Van Bynen, Mayor


Anita Moore, Town Clerk



Corporate Policy Manual

Sub Topic:

Policy No. CAO.3-01

Topic: Employee Code of Conduct

Covered: Regular Union & Non-Union Full time Employees & all Regular Union & Non-Union Part time Employees including Temporary, Contract, Casual and Sessional/Seasonal Employees

Section: CAO

Council Adoption Date:

Effective Date:

Revision No:

Date:

Policy Statement & Strategic Plan Linkages

Town of Newmarket employees hold a special position of trust, employed at public expense for the benefit of the Corporation. Accordingly, Town employees are expected to conduct themselves with honesty, integrity, diligence and political neutrality. By striving to make Newmarket even better, Town employees have an obligation to maintain and promote public confidence in local government, however, they should not be subject to unnecessary restrictions simply because they work in the public sector.

Purpose

The Employee Code of Conduct ("the Code") and related policies identifies the Town of Newmarket's expectations of employees and establishes guidelines for appropriate conduct of employees.

Changes/Amendments to the Code

The Town's Employee Code of Conduct is a dynamic document meant to reflect changing needs, realities and responsibilities. Therefore, as the Town evolves and new issues arise, the Code will be periodically reviewed and modified to reflect the current environment. The review process will be managed by the Town's Corporate Policy Review Committee and will be conducted at least once a year.

PART I - Definitions

Breach of trust means any act or omission by an employee (in connection with the duties of his or her office) that benefits him or her personally either directly or indirectly. This includes breach of trust as defined in the *Criminal Code*.

Confidential information means any information that is of a personal nature to Town employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Corporation or could give the person to whom it is disclosed an advantage. Confidential information includes, but is not limited to the following information:

- Disclosed or discussed at a meeting of Council, Committee of the Whole or Standing Committee, or part of a meeting of Council, Committee of the Whole or Standing Committee that is closed to the public;
- That is circulated to Members of Council and marked "confidential"; or
- That is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information:
 - Personnel matters;
 - Information about suppliers provided for evaluation which might be useful to other suppliers;
 - Matters relating to the legal affairs of the Town;
 - Sources of complaints where the identity of the complainant is given in confidence;
 - Items under negotiation;
 - Schedules of prices in contract tenders; and
 - "Personal information" as defined in the *Municipal Freedom of Information and Protection of Privacy Act*

Conflict of Interest arises when the employee's personal or pecuniary interests conflicts with the employee's duties and responsibilities to the Town of Newmarket.

Fraud involves any intentional or deliberate act to deprive any person or the public of property, money or valuable security by deception or other unfair means. This includes fraud as defined in the *Criminal Code*.

Gifts, Hospitality, Benefits & Perquisites are items, invitations, articles, services, offers, entrance fees or vouchers of more than a nominal value.

Management includes the Chief Administrative Officer, Commissioners, Directors, Assistant Directors, the Town Clerk, Managers and Supervisors.

Pecuniary interests are interests that have a direct or indirect financial impact. These include:

- any matter in which the employee has a financial interest;
- any matter in which the employee is a shareholder, director or senior officer of or holds a controlling interest in a corporation that does or does not offer its securities to the public, and such corporation has a financial interest;
- any matter in which the employee is a partner of a person or is in the employment of a person that has a financial interest; and
- any matter in which a parent, spouse, same sex partner or child of an employee has a financial interest, if known to the employee.

Personal interests involve forms of advantage other than financial such as seeking an appointment, promotion or transfer within the Corporation on behalf of a family member.

Theft is the act of fraudulently taking or converting to one's use, or the use of another person, anything, with the intent to deprive the true owner of it, or a person who has a special property or interest in it. This includes theft as defined in the *Criminal Code*.

Town Property includes, but is not limited to all real property, municipal vehicles, equipment, material, supplies, intellectual property and documents.

PART II – RESPONSIBILITIES OF EMPLOYEES

The Town of Newmarket requires that employees be honest, impartial and accountable in their dealings with everyone with whom they conduct business on behalf of the Town.

2(a) Disclosure

Each employee is required to make prompt and full disclosure in writing to Management, or the Manager of Human Resources of any actual or potential breach of this Code of which the employee is aware.

An actual or potential breach may arise without any intentional wrongdoing or improper conduct on the part of the employee. In those circumstances, employees will not be disciplined or treated adversely for making prompt and full disclosure. If in doubt, the employee shall seek direction regarding any breach or possible breach of the Code by taking the following action:

- Disclose to Management or the Manager of Human Resources the circumstances in question;
- Abide by the advice given in response to the disclosure.

2(b) Employee Behaviour (Professionalism)

Employees must be professional, courteous and objective in all dealings with clients and the general public. It is every employee's responsibility to ensure that all information they communicate is as accurate as possible. No employee shall withhold information or willfully mislead Members of Council, other employees, clients or the public about any issue of corporate concern.

Employees must also be professional, courteous and respectful of their co-workers and Members of Council. Employees are expected to be reasonable and fair in their expectations of each other and to resolve any differences in a mature and professional manner. Employees shall not publicly criticize individual members of Council in a way that casts aspersions on their competence or credibility, or that of the Town of Newmarket.

2(c) Abiding by the Law

Employees shall conduct themselves in a conscientious and diligent manner that is consistent with all applicable federal and provincial legislation, municipal by-laws, Town policies and procedures and departmental policies and procedures. The operations of the Town of Newmarket are subject to many complex and changing provincial and federal laws. Employees are therefore responsible for maintaining an up-to-date knowledge of the legislation within their area of responsibility. Employees are also responsible for maintaining required licenses and/or professional designations that are deemed essential for their job.

The Town's policies and procedures do not take precedence over legal obligations. Appropriate recommendations for change should be brought forward where a practice is in clear conflict with an overriding legal obligation.

If uncertain about the application or interpretation of a law, regulation, policy or procedure, employees should consult Management for advice and direction, and in the case of doubt, employees and/or Management should consult the Town's solicitors or the Chief Administrative Officer for advice and direction.

2(d) Related Obligations (Professional Associations)

Nothing in this Code is intended to conflict with the Town's obligations to its employees under its various collective agreements or employment contracts. In the event of any discrepancy, the higher standard of conduct shall apply.

As well as this Code, many employees may be subject to other rules of conduct as part of their professional affiliations. These employees, including, but not limited to accountants, lawyers, doctors, nurses and engineers,

should review and understand those rules and expectations with their respective professional associations.

PART III – SECURITY OF TOWN INFORMATION AND CONFIDENTIALITY

Town records and information are available to employees on a “need to know” basis and the information must be maintained.

All commercial, financial, or technical information belonging to the Town supplied by a third party, or information that has a monetary value to the Town should only be released where to do so would be in the best interest of the Town and in compliance with relevant legislation, by-laws and policies.

3(a) Confidential Information

Employees must protect the following examples of confidential information from illegal, unauthorized or inadvertent use and disclosure:

- Client records;
- Information contained in business strategies and plans;
- Pending proposals or contracts;
- Estimates prior to tender openings;
- Research results;
- Financial data and projections;
- Proposed acquisitions and divestitures;
- Computer programs and software;
- Professional expertise or inventions.

Employees shall only use confidential information for the performance of their job duties and not for personal or pecuniary interests or gain;

Employees must ensure compliance with the *Municipal Freedom of Information and Protection of Privacy Act* with regard to request for access to information and privacy matters;

Employees shall keep all confidential information in strict confidence even after termination of employment with the Town, except where disclosure is made with the prior written permission of the Town, or the reporting of wrongdoing.

If an employee is in doubt as to whether certain information is confidential, no disclosure should be made without consultation with Management. This basic policy of caution and discretion in handling confidential information extends to both disclosing information within the corporation and externally.

PART IV – CONFLICT OF INTEREST

A conflict of interest arises when an employee's personal or pecuniary interests conflicts with the employee's duties and responsibilities to the Town of Newmarket.

Potential conflicts include the following:

- Making a personal bid on the sale of Town property or Town property disposed of at public auction.
- Placing themselves in a position where they are under an obligation to any person who might benefit from special consideration or favour on their part.
- Promoting, making a decision, or dealing in any way with an application to the Town of Newmarket for a loan, grant, award or other benefit involving themselves or a parent, spouse, same sex partner or child.
- Using their position to give any person or organization special treatment that would advance their own pecuniary or personal interests or that of any employee's relatives.
- Engaging in any financial, business transactions or other activities, which are inconsistent with their independence of judgment or with the impartial discharge of their official duties.
- Using confidential information acquired in their official capacity that is not generally available to the public through ordinary and proper channels for the purpose of personal benefit.
- Participating in any decision, promotion or making any recommendations to Management in which they have any pecuniary interest.

4(a) Outside Employment/Activities:

An employee must not engage in any outside employment or business undertaking (paid or volunteer) that interferes with the performance of his or her duties as a Town employee. Where this conflict exists, employees may be required to cease participation in the activity, transfer to other duties, or choose between continued employment at the Town and the outside activity.

4(b) Appointments:

An employee may seek or accept appointment to a Town Committee, Task Force or Working Group in the capacity of an employee of the Town. Employees may also accept appointments to other municipal, provincial or federal commissions, boards or committees. In those cases, employees should discuss the appointment with Management before accepting any such appointment.

Employees who hold positions as elected officials or board members on community associations and agencies that deal with issues related to their work at the Town shall inform Management of their appointment. When

agency issues conflict with Town policies or procedures, the employee shall declare a conflict of interest and may be required to remove themselves from the issue.

4(c) Representing Others:

An employee may not appear before Council or a Committee of Council on behalf of a private citizen other than himself/herself, his/her spouse or same sex partner, his/her parents or his/her minor children.

4(d) Public Appearances:

An employee shall not accept any fee for taking part in a public engagement to which he or she was invited as a direct result of his or her position as an employee or knowledge derived from his or her employment with the Town. An employee engaged in outside activities or employment must not appear to represent the opinion or policy of the Town.

4(e) Employee Responsibilities:

If a potential conflict exists because of an employee's personal or pecuniary interests or similar circumstances, the employee must:

- disclose the situation in accordance with paragraph 2(a) of this Code,
- take direction from Management or the Mayor regarding appropriate alternate arrangements to handle the matter,
- abide by the advice given in response to the disclosure and
- avoid situations which may present a conflict of interest while dealing with persons or organizations doing business or seeking to do business with the Town.

4(f) Responsibilities of Management and the Mayor:

- document any actual or potential conflict of interest situations;
- maintain confidential files regarding any actual or potential conflict of interest situations;
- review on an annual basis all disclosures of actual or potential conflict of interest situations with the CAO or the Mayor; and
- comply with all other requirements of this Code including section 2(a) and Part VII.

PART V – GIFTS, HOSPITALITY, BENEFITS & PERQUISITES

5(a) Receipt of Gifts by an Employee

Employees shall not seek or accept any gift, service, commission, reward, advantage, favour, benefit or privilege that could be viewed as given in anticipation of or in recognition of special consideration, or that may

influence or be perceived to influence the employee in the course of their employment.

Exceptions to this policy include:

- Occasional gifts of a nominal or promotional value, such as, but not limited to: baseball caps, T-shirts, mugs, pens, and calendars.

Gifts of more than a nominal or promotional value shall be returned to the sender with an acknowledgement of the return and reference to this policy.

Gifts of real property, cash, the equivalent of cash, such as negotiable securities, the use of vacation property, boats or vehicles and airline tickets shall not be accepted.

If any employee has a question as to whether a gift may be accepted in compliance with this policy, the employee should consult with Management who in turn may consult with the Commissioner or Chief Administrative Officer as applicable for clarification on this policy. The Chief Administrative Officer may at his discretion consult with the Mayor.

5(b) Receipt of Gifts by a Department

A gift received by more than one employee shall be reported to Management of the Department, and if the gift is consistent with accepted business practice, the gift may be accepted. For example, a box of chocolates, gift basket or bouquet of flowers from a company that transacts business with the Town may be accepted on behalf of the department.

5(c) Gifts Given

Gifts may be given to others at the Town's expense only if Management or the Mayor has approved the gifts in advance, the gift is consistent with accepted business practice and is not given nor could it be perceived to be given to influence any relationship.

If an employee is in doubt about any of the above, or if the particular situation is not covered here, the employee should ask Management for assistance in the interpretation of this policy.

5(d) Acceptance of Invitations

(i) Cultural, Social, Charitable, Political, Recreational or Sporting Events:

- Generally, employees of the Town should not attend cultural, social, charitable, political, recreational or sporting events at someone else's expense. Exceptions to this policy may be made, if in the opinion of the

Director, Commissioner or Chief Administrative Officer, it would be beneficial for corporate purposes.

- If, in the context of employment, an employee receives an invitation to attend, in the Company of a person extending the invitation, a cultural, social, charitable, political, recreational or sporting event at someone else's expense, the employee should consult with Management who in turn will decide, in consultation with the Commissioner or Chief Administrative Officer as applicable, whether or not attendance would be beneficial for corporate purposes. The Commissioner or Chief Administrative Officer may at their discretion consult with the Mayor. For example, it may be appropriate to send representatives from the Town to a charitable event or one that is sponsored by another municipality.
- If, in the context of his or her employment, an employee receives an invitation to attend, at someone else's expense, cultural, social, charitable, political, recreational or sporting event where the person extending the invitation will not accompany the employee, or it is clear that business will not be carried out, the invitation should be refused with reference to this policy.
- The Town will consider reimbursing the employee for the cost of the ticket or entry fee for his or her attendance at a cultural, social, charitable, recreational or sporting event where the Director, Commissioner or Chief Administrative Officer determine that attendance would be beneficial for corporate purposes.

(ii) Travel and Accommodation:

- Employees shall not accept travel costs and/or accommodations, or payment related to travel or accommodation, from any person or organization, unless the Director, Commissioner or the Chief Administrative Officer decides that the interests of the Corporation are best served through the acceptance of the travel and/or accommodation.

(iii) Meals or Hospitality:

- Generally, employees shall not accept complimentary meals, food or beverages from any person or business organization, unless Management decides that the interests of the Corporation are best served through the acceptance of the meal, food or beverages. Town business should normally be carried out in a business environment, such as in the Town offices.
- In certain circumstances, it may be appropriate for an employee, in the course of carrying out normal business activities, to accept a meal from time to time where a meeting overlaps with a mealtime, such as a working breakfast or lunch. If an employee has a question as to whether this provision would apply, the employee should consult with Management, who in turn may consult with the Commissioner or Chief Administrative Officer for clarification on this policy.

5(e) Entertainment or Hospitality Offered by The Town

Entertainment or Hospitality may be offered at the expense of the Town if approved by Management based on a determination that it would be beneficial for corporate purposes and/or would further the interests of the Town. The Chief Administrative Officer may at his discretion consult with the Mayor.

5(f) Responsibility of Employees

- Disclose all gifts, invitations of hospitality, benefits and/or perquisites received in accordance with section 2(a);
- consult with Management or the Mayor as applicable regarding whether acceptance of the gift, invitation of hospitality, benefits and/or perquisites will contravene this policy; and
- take direction from Management or the Mayor as applicable regarding acceptance or return of the gift, invitation of hospitality, benefit and/or perquisite.
- Comply with all other requirements of this Code including section 2(a).

5(g) Responsibilities of Management and the Mayor

- Keep a record of all gifts, invitations of hospitality, benefits and/or perquisites offered to or received by staff of the Department;
- provide advice and direction on the applicability of this Code to the particular circumstances;
- provide advice and direction on the appropriateness of acceptance of any gift, invitation of hospitality, benefit and/or perquisite offered to or received by staff of the Department; and
- comply with all other requirements of this Code including section 2a and Part VII.

PART VI - Fraud, Theft and Breach of Trust

Each employee who has care or custody of Town property must ensure that it is properly secured and that controls in place are used and not being circumvented. Town employees are also responsible for the safeguarding of their own personal property.

All employees of the Corporation are responsible for immediately reporting suspected fraud, theft or breach of trust to their Director, Commissioner or Chief Administrative Officer.

In addition to contravening Town policy, acts of fraud and breach of trust may constitute a criminal offence as set out in the Criminal Code. Examples of fraud, theft and breach of trust include, but are not limited to the following:

(i) Inappropriately obtaining a benefit or avoiding an obligation by actions such as:

- illegally obtaining money, including acceptance of bribes;
- getting early payments or advances;
- using equipment for private purposes;
- avoiding fees or taxes;
- obtaining approvals under false pretenses
- avoiding contractual obligations;
- the use of a public position for private gains, either directly or indirectly; or
- theft from mail.

(ii) Using deceit to gain a benefit or advantage by actions such as:

- providing false or incomplete information;
- falsifying records;
- avoiding proper procedures; or
- non-compliance with statutory requirements.

All suspected fraud or breach of trust will be investigated fully by the Corporation as set out in this policy.

The Manager of Human Resources in consultation with the Commissioner of the Business Unit and/or the Chief Administrative Officer will oversee all investigations. Employees shall not discuss cases of suspected fraud outside of the investigation. Employees suspected of fraud or breach of trust will only be informed when this action is authorized by the investigator or the police. If an employee interview is required, the applicable Manager or Director, the Manager of Human Resources, and if necessary, the Commissioner must be present.

Retaliation against informants, whistleblowers or witnesses involved in investigations of wrongdoing is forbidden. Retaliation will be grounds for disciplinary action up to and including dismissal.

Confirmed act(s) of fraud or breach of trust will result in disciplinary action up to and including termination of employment and may result in criminal charges.

6(a) Responsibilities of the Manager of Human Resources

- Oversee and direct all investigations to determine if fraud, theft or breach of trust has occurred or is likely to occur;
- to consult with Management, including the Commissioner, Chief Administrative Office or the Mayor as applicable; and
- to ensure that employee interviews under this Part are conducted as follows:

Employee Interview

The Employee shall be cautioned as follows:

"You have been asked to attend for an interview because it is alleged that you _____. This matter may result in criminal charges being laid against you. You are not obliged to say anything unless you wish to do so, but whatever you do say may be used in evidence. You have the right to retain and instruct a lawyer without delay. Do you understand this caution?"

"Do you wish to proceed with this interview or do you wish an adjournment to retain and instruct a lawyer?"

If the employee requests an adjournment, it must be granted. An early date will be set for another meeting.

If the employee agrees to the interview, Human Resources or designate must ensure that accurate notes are made of the interview, and that a signed statement of the employee's version of the events in question is obtained, if possible.

6(b) Responsibilities of the Chief Administrative Officer

The Chief Administrative Officer or designate is authorized to take the following actions, if it appears that theft, fraud or breach of trust has occurred or is planned:

- Police must be notified if the amount involved exceeds \$1,000.00 (CDN);
- Police may be notified if the amount involved does not exceed \$1,000.00 (CDN);
- Employee under investigation may be suspended with or without pay;
- Employee found to have committed or planned fraud, theft or breach of trust may be dismissed or otherwise disciplined in accordance with the Counselling and Progressive Discipline Policy.

6(c) Responsibilities of Management

- To ensure that adequate safekeeping arrangements are in place for all Town property in department's control or use;
- ensure that any employee in charge of handling any Town property is fully aware of and in Compliance with safekeeping arrangements;
- report any inadequacies or problems in complying with existing safekeeping arrangements immediately to the Chief Administrative Officer;

- report any allegations of fraud or theft immediately to the Manager, Human Resources, the Chief Administrative Officer and any other affected Commissioners or Directors; and
- comply with all other requirements of this Code including Part VII.

6(d) Employee Responsibilities

- Use Town property only to the extent necessary to carry out assigned duties;
- report any inadequacies in, or problems in complying with existing safekeeping arrangements to the applicable Director or Commissioner;
- ensure Town property in the employee's control is not taken or converted for personal gain;
- report any instances or suspicions of fraud, theft or breach of trust to the applicable Director or Commissioner immediately;
- assume full responsibility for the employee's personal property brought onto Town property; and
- comply with all other requirements of this Code.

PART VII – MANAGEMENT RESPONSIBILITIES

In addition to those responsibilities set out elsewhere in this Code, Management has the following general responsibilities:

- Educate employees and encourage compliance with all aspects of the Code.
- Demonstrate behaviours that are consistent with the Code.
- Support / provide guidance to staff members.
- Provide advice on matters that are related to the Code.
- Make every effort to establish and maintain adequate systems, procedures and controls to prevent and detect fraud, theft, breach of trust, conflict of interest and any other form of wrongdoing.
- Comply with all other requirements of this Code.

CAO/Commissioners/Directors Responsibilities

In addition to those responsibilities set out elsewhere in this Code, the CAO/Commissioners/Directors have the following general responsibilities:

- Educate employees and encourage compliance with all aspects of the Code.
- Demonstrate behaviours that are consistent with the Code.
- Support / provide guidance to staff members.
- Provide advice on matters that are related to the Code.
- Receive written disclosure of any actual or potential breach of the Code.
- Seek the advice of the Town Solicitor and/or Human Resources prior to taking action on a suspected incident of wrongdoing.
- Investigate any suspected breaches of the Code and consider the circumstances under which the breach may have occurred.
- Maintain confidentiality while conducting an investigation of a suspected breach.

- Determine whether a breach has occurred.
- Determine the appropriate disciplinary action for the breach.
- Comply with all other requirements of this Code.

PART VIII – COMPLIANCE WITH CODE OF CONDUCT

Every employee is expected to be aware of, and act in compliance with this Code and its related policies. Any employee who contravenes these requirements, including the Disclosure requirement in section 2(a) may be subject to appropriate disciplinary action up to and including dismissal. Any employee under investigation may be suspended with or without pay or may be re-assigned to other duties pending completion of the investigation, depending on the particulars of the case and the best interests of the Town.

8(a) Whistleblowing

Employees who allege wrongdoing on the part of Members of Council, officers, employees, agents or contractors should disclose this information to Management, or to the appropriate policing authority. Retaliation for such disclosure or against informants or witnesses involved in investigations of wrongdoing is absolutely prohibited. Retaliation will be grounds for disciplinary action up to and including dismissal.

8(b) Consequences for Breach of Code of Conduct

Where it is determined that an employee is in contravention of the Code, disciplinary action may be taken in accordance with the Counselling and Progressive Discipline Policy 4-01

Cross References

Council Code of Conduct

Council – Staff Request for Information and Use of Resources Policy, CAO.1-01

Harassment and Discrimination Free Workplace, 5-01

Alcohol and Drug, 5-02

Counselling and Progressive Discipline, 4-01

Employee Complaint, 4-02

Internet and E-mail Acceptable Use Policy and Guidelines, IT.1-01

Use of Corporate Resources and Election Campaign Activities, Corp.1-01

Criminal Code of Canada, R.S. 1985, c. C-46

Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50

Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56