

**THE CORPORATION OF THE TOWN OF KEARNEY**

**By-Law No. 2025- 23**

*Being a By-Law to Establish a Code of Conduct for the Mayor, Councillors, Committee and Board Members of the Corporation of the Town of Kearney*

**WHEREAS** the Municipal Act, 2001, 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;

**WHEREAS** the Municipal Act, 2001, as amended, authorizes municipalities to establish codes of conduct for members of the Council of the municipality and of local boards of the municipality;

**AND WHEREAS** the Municipal Act, as amended, authorizes penalties for a contravention of the code of conduct; and

**AND WHEREAS** Council deems it expedient to establish a Code of Conduct for the Mayor, Councillors', Committee and Board Members;


**NOW THEREFORE**, the Council of The Corporation of the Town of Kearney enacts as follows:

1. That The Corporation of the Town of Kearney adopts the Code of Conduct, substantially in the form of Schedule "A", attached hereto and forming part of this by-law.
2. All previous By-laws and resolutions and parts of by-laws and resolutions inconsistent with the provisions of this by-law are hereby repealed.
3. This by-law shall come into force and take effect on the date of its final passing.

**READ A FIRST, SECOND TIME AND THIRD TIME**, passed and signed and the Corporate Seal attached hereto, this the 17<sup>th</sup> day of April, 2025.

THE CORPORATION OF THE  
TOWN OF KEARNEY

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

# **Town of Kearney Council Code of Conduct**

## **TABLE OF CONTENTS**

1. AUTHORITY
2. PREAMBLE
3. DEFINITIONS
4. STATUTORY PROVISIONS
5. APPLICATION
6. GIFTS, BENEFITS AND HOSPITALITY
7. CONFIDENTIAL INFORMATION
8. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES
9. ELECTION CAMPAIGN WORK
10. IMPROPER USE OF INFLUENCE
11. BUSINESS RELATIONS
12. CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT
13. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS
14. CONDUCT RESPECTING STAFF
15. SOCIAL MEDIA USE/CONDUCT
16. DISCREDITABLE CONDUCT
17. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES
18. REPRISALS AND OBSTRUCTION
19. ACTING ON ADVICE OF INTEGRITY COMMISSIONER
20. COMPLIANCE WITH THE CODE OF CONDUCT
21. POLICY REVIEW

## **1. AUTHORITY**

The Corporation of the Town of Kearney has established this Council Code of Conduct in accordance with Part V.1 - Accountability and Transparency of the Municipal Act, 2001, S.O. 2001, c.25.

## **2. PREAMBLE**

It is the goal of the Corporation of the Town of Kearney to improve the quality of public administration and governance by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the Corporation of the Town of Kearney's reputation and integrity.

Subsection 223.2 of the Municipal Act, 2001 requires the Municipality to establish a code of conduct for members of Council. It is intended to supplement and be compatible with the laws governing the conduct of members.

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

- Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- Members of Council are elected by their constituents to represent their views when dealing with issues that come before Council. The constituents have many views and opinions and Members of Council cannot represent all of the issues, all of the time. Election to office also requires Members of Council to have a broader understanding of the issues that impact the municipality as a whole. Members of Council will have to consider conflicting interests and make decisions that may not be considered popular by everyone.
- Members of Council 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 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 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; and

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

Further, in this Code of Conduct, "Member" means a member of Council, including the Mayor, or a member of a Council Committee or Local Board, whether or not a member

of a Council Committee or Local Board is also a member of Council, as the context so requires.

#### **4. STATUTORY PROVISIONS**

This Code of Conduct operates along with and as a supplement to the existing statutes governing the conduct of Members. The following statutes govern the conduct of Members:

- the Municipal Act, 2001;
- the Municipal Conflict of Interest Act;
- the Municipal Elections Act, 1996;
- the Municipal Freedom of Information and Protection of Privacy Act;
- the Occupational Health and Safety Act;
- the Ontario Human Rights Code; and
- the Criminal Code of Canada

#### **5. APPLICATION**

This Code of Conduct applies to the Mayor, all members of Council, and any members of a Committee of Council or Local Board, whether or not a member of those Committees or Local Boards are also a member of Council.

#### **6. GIFTS, BENEFITS AND HOSPITALITY**

No Member shall accept a fee, advance, gift 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 or advance paid to or a gift or 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 of Council 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. the source and date of receipt of the gift or benefit;
3. the circumstances under which the gift or benefit was given or received;
4. the estimated value of the gift or benefit;
5. what the recipient intends to do with any gift; and
6. whether any gift will at any point be turned over to 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 Municipality.

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.

## **7. CONFIDENTIAL INFORMATION**

Confidential information includes information in the possession of or received in confidence by the Town of Kearney that the Town of Kearney 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 Municipality 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, directly or indirectly, 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 the Town of Kearney's Procedural By-law a matter that has been discussed at an in-camera (closed) meeting remains confidential. No Member shall disclose or release, directly or indirectly, 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 must keep confidential:

- items under litigation, negotiation, or personnel matters;
- information subject to solicitor-client privilege;
- 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 should not access or attempt to gain access to confidential information in the custody of the Municipality unless it is necessary for the performance of their duties and not prohibited by Council policy or otherwise by law. Members are only entitled to information in the possession of the Municipality that is relevant to matters before Council, a committee or a local board. Otherwise, Members enjoy the same access rights to information as any other individual in the community and must follow the same processes as any private citizen to obtain such information.

## **8. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES**

No Member 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 Municipality.

## **9. ELECTION CAMPAIGN WORK**

Members are required to follow the provisions of the Municipal Elections Act, 1996. No Member shall use the facilities, equipment, supplies, services or other resources of the Municipality (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 Municipality.

## **10. IMPROPER USE OF INFLUENCE**

No Member 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 as a Member 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, 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 as authorized by Council.

## **11. BUSINESS RELATIONS**

No Member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Municipality 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 or employment of an immediate family member by a person or entity to detrimentally affect the performance of his or her duties to the Municipality.

## **13. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS**

Members shall conduct themselves with decorum and in a civil and respectful manner at Council and committee/local board meetings in accordance with the provisions of the Town's current Procedure By-Law.

## **14. CONDUCT RESPECTING STAFF**

Under the direction of the Clerk – Administrator (Clerk/CAO), Staff serve the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Members have no individual capacity to direct employees to carry out particular functions. 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.

Accordingly, no 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 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 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. SOCIAL MEDIA USE/CONDUCT**

These standards help ensure that social media is used effectively and responsibly by council members, fostering trust and transparency within the community. By following these standards, Members of Council can use social media effectively to engage with the community, share important information, and promote transparency and accountability in municipal governance.

Members of Council are expected to adhere to the following standards when using social media platforms:

- (a) Professional Conduct: Members must maintain a high standard of professional conduct on social media, reflecting the values and integrity of the municipality. This includes being respectful, courteous, and avoiding any form of harassment or discrimination.
- (b) Confidentiality: Members must not disclose confidential or sensitive information related to the municipality, its employees, or residents. This includes information discussed in closed sessions or any other non-public information.
- (c) Accurate Representation: Members should ensure that their social media posts are accurate and not misleading. When expressing personal opinions, they should clearly distinguish these from official municipal positions. Members must not use municipal resources, such as official email addresses or social media accounts, for personal social media activities. Official accounts should be used solely for municipal business and communication.
- (d) Transparency and Accountability: Council members should be transparent about their identity and role when using social media. This includes using their real names and clearly stating their position. Council members should clearly distinguish between

their personal and official social media accounts. Personal opinions should not be presented as official statements.

- (e) Professionalism: It's important to maintain a professional tone at all times. Avoid engaging in arguments or posting content that could be seen as offensive or inappropriate. Be mindful of the content shared on social media. Avoid sharing confidential or sensitive information and ensure that all posts are accurate and respectful. Engage respectfully with the public and Staff online. Do not post content that could be perceived as offensive, inflammatory, or inappropriate.
- (f) Compliance with Laws and Policies: Ensure that all social media activity complies with relevant laws, such as the Open Meetings, Municipal Act, Municipal Conflict of Interest Act, Municipal Elections Act, and any policies that may apply including the understanding of documentation being used under the Municipal Freedom of Information Act. This includes being mindful of what constitutes a "meeting" and ensuring that any public business discussed online is being put forward using the proper processes. Members must also adhere to any policy, laws or regulations regarding the use of municipal resources during election periods. Avoid conflicts of interest and ensure that social media use aligns with the council's ethical standards. Members should avoid posting content that could create a real or perceived conflict of interest. Any potential conflicts should be disclosed and managed appropriately.
- (g) Engagement and Responsiveness: Use social media to engage with the community and respond to constituents' concerns. However, be cautious about the nature of the interactions and avoid making promises or statements that could be misinterpreted. Always act ethically and in the best interest of the public.
- (h) Monitoring and Enforcement: The Town will not monitor or enforce this section of the Code of Conduct as the Town has no obligation to enforce the Council Code of Conduct. If a member of the public, Staff or Council believe this section of the Code of Conduct has been violated by a member of Council. They may use the information obtained from Members' social media platforms as evidence in an investigation inquiry with the Town's Integrity Commissioner.

## **16. DISCREDITABLE CONDUCT**

All Members have a duty to treat members of the public, one another, and Staff appropriately and without discrimination, abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. All Members shall abide by the provisions of the Ontario Human Rights Code, the Town's Violence and Harassment Policy, as well as the Occupational Health and Safety Act.

## **17. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES**

Several of the provisions of this Council Code of Conduct incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all by-laws, policies and procedures established by the Town of Kearney.

## **18. REPRISALS AND OBSTRUCTION**

Members shall respect the integrity of the Council 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 Council Code of Conduct to obstruct the Integrity Commissioner in the carrying out of their responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications. Members shall cooperate with the Integrity Commissioner during the course of any inquiry considering an alleged contravention of this Code.

## **19. 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.

## **20. COMPLIANCE WITH THE COUNCIL 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 disclose a direct or indirect pecuniary interest under the Municipal Conflict of Interest Act.

Every Member shall comply with the Council Code of Conduct and all applicable laws including the Municipal Conflict of Interest Act.

The Municipal Act, 2001 authorizes Council to impose either of two penalties on a Member 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 take the following remedial 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.

## **21. REVIEW**

To proactively manage policy review, it is desirable to set a review date. Therefore, a review of this policy shall be performed in the year of a Municipal Election in order to maintain its accuracy and applicability. Should legislation that governs this Council Code of Conduct change prior to the year of a Municipal Election, the policy shall be reviewed and revised accordingly.