

THE CORPORATION OF THE CITY OF ELLIOT LAKE

***B*Y-LAW NO. 16-74**

Being a By-Law to adopt a Code of
Conduct Policy for Members of Council,
Local Boards, and Advisory 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 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, authorizes municipalities to pass bylaws 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 City of Elliot Lake deems it expedient to adopt a Code of Conduct for Council, Local Boards and Advisory Committees;

NOW THEREFORE the Council of the Corporation of the City of Elliot Lake hereby enacts a Code of Conduct for Members of Council, Local Boards, and Advisory 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, 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 Advisory Committees attached hereto as Schedule "A" shall form part of this bylaw.

3. EFFECTIVE DATE

This by-law shall come into full force and effect upon receipt of final passing by City Council.

PASSED this 12th day of December, 2016.

MAYOR

CITY CLERK



THE CORPORATION OF THE CITY OF ELLIOT LAKE

SCHEDULE "A"

TO

BY-LAW NO. 16-74

CODE OF CONDUCT FOR MEMBERS OF COUNCIL,
LOCAL BOARDS, AND ADVISORY COMMITTEES

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1. PREAMBLE

A written code of conduct ensures that members of Council, Local Boards, and Advisory Committees share a common integrity base through adherence to its principles. The Code of Conduct also serves to enhance public trust.

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

- All Members to whom this Code of Conduct applies shall serve in a conscientious and diligent manner;
- Members shall be committed to performing their functions with integrity and to avoid the improper use of the influence of their office, and conflicts of interests, both real and apparent;
- Members 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;
- Members are responsible for making honest statements and no member shall make a statement when they know that a statement is false, or with the intent to mislead other members or the public; and
- Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and Elliot Lake Council.

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 the Elliot Lake Council have determined that its stakeholders could reasonably expect members of Council to demonstrate in the performance of their responsibilities as elected community representatives.

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 of the City of Elliot Lake represent a broad base of interests and concerns which require fair and open attention, adjudication and disposition. These stakeholders include, but are not limited to:

- Residents
- Ratepayers
- Other members of Council
- Staff
- Local Boards and Committees
- Province of Ontario
- School Boards and Agencies
- Suppliers
- Chamber of Commerce

To assist the City of Elliot Lake 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; and
- c) That they familiarize themselves with and follow the provisions of the Municipal Act and the Municipal Conflict of Interest Act

3. ROLES AND RESPONSIBILITIES

This Code of Conduct operates along with, and as a supplement to, the existing statutes governing conduct. Five pieces of Federal and Provincial legislation govern the conduct of members of Council, those being:

- a) The Criminal Code of Canada
- b) The Municipal Conflict of Interest Act
- c) The Municipal Elections Act
- d) The Municipal Freedom of Information and Protection of Privacy Act
- e) The Municipal Act

Part VI of the Municipal Act, 2001 prescribes the following as the roles of a municipal council, the head of council, and the head of council as chief executive officer:

It is the role of Council:

- To represent the public and to consider the well-being and interests of the Municipality;
- To develop and evaluate the policies and programs of the municipality;
- To determine which services the municipality provides;

- To ensure that administrative policies practices and procedures and controllership policies practices and procedures are in place to implement the decisions of council;
- To ensure the accountability and transparency of the operations of the municipality including the activities of the senior management of the municipality; and
- To maintain the financial integrity of the municipality and to carry out the duties of council under this or any other Act.

It is the role of the head of council

- To act as chief executive officer of the municipality;
- To preside over council meetings so that its business can be carried out efficiently and effectively;
- To provide leadership to the council;
- To provide information and recommendations to the council with respect to the role of council described in Sections 224 d and d1 of the Municipal Act 2001;
- To represent the municipality at official functions; and
- To carry out the duties of the head of council under this or any other Act

As chief executive officer of a municipality the head of council shall:

- Uphold and promote the purposes of the municipality;
- Promote public involvement in the municipality's activities;
- Act as the representative of the municipality both within and outside the municipality and promote the municipality locally nationally and internationally; and
- Participate in and foster activities that enhance the economic social and environmental well-being of the municipality and its residents.

4. **DEFINITIONS**

“**Code of Conduct**” shall mean the City of Elliot Lake Code of Conduct for Members of Council, Local Boards and Advisory Committees.

“**Complaint**” shall mean a purported contravention of the Code of Conduct.

“**Frivolous**” shall mean of little or no weight, worth, or importance; not worthy of serious notice.

“**Immediate Relative**” shall mean a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law as well as step-relationships; spouse shall apply equally to marital relationship and common law.

“**Lobby**” shall mean to communicate with a Member outside of a public process about matters of interest or benefit to the lobbyist and their client/business/organization. Communication may be about a bylaw or resolution on any matter that requires a decision City Council, a Local Board or delegated decision maker. This includes matters regarding policies or programs, the purchase of goods and services, and the awarding of contracts, applications for service, grant, planning approval or other licence.

“**Lobbyist**” shall mean a person who communicates for payment with public office holders, a person who lobbies on a volunteer basis for a business or a not-for-profit professional, business, industry, trade or labour organization or a consultant or voluntary lobbyist who arranges meetings between a Member and any other person for the purpose of lobbying.

“**Local Board**” for the purpose of the Code of Conduct a local board shall mean one of the following boards/quasi-judicial committees established by Elliot Lake Council:

- Any Standing Committee of Council
- Committee of Adjustment
- Property Standards Committee
- Compliance Audit Committee
- Joint Relations Committee

5. APPLICATION

The Code of Conduct shall apply to all members of Council and local boards. In recognizing that Advisory Committees are comprised largely of citizen volunteers from across the City of Elliot Lake who have been appointed by Council to provide special advice and expertise, some of the provisions outlined may not be applicable to those members. Accordingly the conduct of Advisory Committee Members shall be governed by the provisions of the Advisory Committee Members Code of Conduct attached hereto as Appendix A.

6. STANDARD OF CONDUCT

a. BUSINESS RELATIONS

No member shall act as a lobbyist before Council, its committees or an agency, board or commission of the City 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.

This does not prohibit activities in which a member would normally engage on behalf of constituents in accordance with the duties of their office.

b. CONDUCT AT MEETINGS

At all meetings members shall conduct themselves with decorum in accordance with the provisions of the City of Elliot Lake's Procedural Bylaw.

Respect for delegations, fellow members and staff requires that all members show courtesy and not distract from the business of the City during presentations and when other members have the floor.

c. CONDUCT OF A POLITICAL NATURE

No member shall use City facilities, services or property for his/her election or re-election campaign. No member shall use the services of City employees for his/her election or re-election campaign during hours in which the employees are in the paid employment of the City.

d. CONDUCT RESPECTING STAFF

Only Council as a whole has the authority to approve budgets, policies, committee processes, and other such matters. Therefore members are not permitted to individually direct the actions of staff except as authorized by Council. Members shall be respectful of the fact that staff work for the City as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective without undue influence from any individual member or group of members.

Members shall be respectful of the fact that staff carry out directions of Council and administer the policies of the municipality and are required to do so without any undue influence from any individual member or group of members.

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 the staff of the City of Elliot Lake.

Council as a whole directs the business of the City and passes bylaws or resolutions as appropriate for decisions adopted by Council. Council has delegated responsibility to the Chief Administrative Officer (CAO) for the administration of the affairs of the City in accordance with the decisions adopted by Council. This means that under the direction of the CAO staff have the responsibility and the authority to provide consultation, advice and direction to Council and to implement Council approved policy. To fulfill this role staff establishes the appropriate administrative policies, systems, structures and internal controls to implement the goals and objectives of Council, and to manage implementation within the resources at their disposal. Council therefore should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics the loyalties of persons in power or their personal opinions.

No member shall compel staff to engage in partisan 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, including the duty to disclose improper activity.

e. CONDUCT WHILE REPRESENTING THE CITY

Members shall make every effort to participate diligently in the activities of the agencies, boards, committees, and commissions to which they are appointed.

f. CONFIDENTIAL INFORMATION

Where a matter discussed at an in camera (closed) meeting remains confidential no member shall disclose the content of that matter or the substance of the deliberations of an in camera meeting. Members shall not permit any persons, other than those who are entitled thereto, to have access to confidential information. Members shall not disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office except when required to do so by law.

Particular care should be exercised in ensuring the confidentiality of the following types of information:

- The security of the property of the municipality or local board;

- Personal matters about an identifiable individual including municipal or local board employees;
- A proposed or pending acquisition or disposition of land by the municipality or local board;
- Labour relations or employee negotiations;
- Litigation or potential litigation, including matters before administrative tribunals affecting the municipality or local board;
- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- A matter in respect of which a council, board, committee, or other body may hold a closed meeting under another Act;
- Items under 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 the Municipal Freedom of Information and Protection of Privacy Act;
- Statistical data required by law not to be released (e.g. certain census or assessment data); and
- Any and all statements that have been provided in confidence.

The above list is provided as an example and is not exclusive. Requests for information will be referred to appropriate staff to be addressed as either an informal request for access to municipal records or as a formal request under the Municipal Freedom of Information and Protection of Privacy Act.

g. DISCREDITABLE CONDUCT

- (i) Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, disability, sexual orientation, marital status, or family status and any other grounds identified under the Ontario Human Rights Code.

All members 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.

- (ii) No member shall make a public statement, including social media post(s), regarding officials or the business of the City which utilizes indecent, offensive, or insulting language.

7. GIFTS AND BENEFITS

No member shall accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of his/her duties of office unless permitted by the exceptions listed below. Notwithstanding the exceptions listed, no member shall accept monies or any instrument that can be converted into monies unless authorized by law. For these purposes, a fee or advance paid to, or a gift or benefit provided by a third party with the member's knowledge to a member's spouse, child (who is under the age of 18 years), is deemed to be a gift to that member.

a. EXCEPTIONS

The following are recognized as an exception:

- i. Compensation authorized by by-law;
- ii. Gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- iii. A political contribution otherwise reported by law;
- iv. Services provided without compensation by persons volunteering their time;
- v. A suitable memento of a function honouring the member;
- vi. Food, lodging, transportation and entertainment provided by provincial, regional, and local governments or political subdivisions of them and by the Federal government or the government of a foreign country;
- vii. Food, beverages, and/or admission fees provided for banquets, receptions or similar events if:
 - a. attendance is resultant to protocol or social obligations that accompanies the responsibility of office; and
 - b. the person extending the invitation or a representative of the organization is in attendance;

In the case of categories (ii),(v),(vi), (vii), if the value of the gift or benefit exceeds \$100, or if the total value received from any one source over any 12 month period exceeds

\$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the City Clerk.

The disclosure statement must indicate:

- i. The nature of the gift or benefit;
- ii. The source and the date of receipt;
- iii. The circumstances under which it was given or received;
- iv. Its estimated value;
- v. What the recipient intends to do with the gift;
- vi. Whether the gift will at any point be donated to the City

All disclosure statements shall be a matter of public record.

8. USE OF INFLUENCE

No member shall use the influence of his/her office for any purpose other than for the exercise of his/her official duties. No member shall seek or obtain by reason of his/her office any personal privilege or private advantage with respect to City services not otherwise available to the general public and not consequent to his/her official duties.

Examples of prohibited conduct are the use of ones status to improperly influence the decision of another person to the private advantage of oneself or ones immediate relative, staff members, friends or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence in return for present actions or inaction.

9. USE OF CITY PROPERTY, SERVICES, OR OTHER RESOURCES

No member shall use for personal purposes any City property, equipment, services, supplies, or services of consequence other than for purposes connected with the discharge of City duties or associated community activities of which City Council has been advised.

No member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties. No member shall obtain financial gain from the use of City developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the City of Elliot Lake.

10. COMPLAINT PROTOCOL

The Complaint Protocol herein established shall not retroactively apply to any alleged transgressions occurring prior to the date on which this Code of Conduct was adopted.

i. INFORMAL COMPLAINT PROCEDURE

Individuals (for example municipal employees, members of the public, members of Council or local boards) or organizations who have identified or witnessed behaviour or an activity by a member of Council, local board or advisory committee that they believe is in contravention of the Code of Conduct could address the prohibited behaviour or activity themselves as follows:

- a. Advise the member that their behaviour or activity appears to contravene the Code of Conduct;
- b. Encourage the member to stop the prohibited behaviour or activity;
- c. Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- d. If applicable, confirm to the member that you are satisfied with the response you received, or advise the member of your dissatisfaction with the response;
- e. Consider the need to pursue the matter in accordance with the formal complaint procedure or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. A person is not required to undertake the informal complaint procedure prior to pursuing the formal complaint procedure.

ii. FORMAL COMPLAINT PROCEDURE

- a. A request for an investigation of a complaint that a member has contravened the Code of Conduct (the “complaint”) shall be made in writing.

- b. All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).
- c. A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code of Conduct and shall include any evidence in support of the complaint.
- d. The request for an investigation shall be filed with the Chief Administrative Officer.
 - i. If the complaint is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation the Chief Administrative Officer may advise the complainant in writing as follows:
 - 1. If the complaint on its face is an allegation of criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that if they wish to pursue the allegation, they must do so with the appropriate police force;
 - 2. If the complaint on its face is with respect to non-compliance with the Municipal Conflict of Interest, the complainant shall be advised to review the matter with their own legal counsel;
- e. The Chief Administrative Officer shall hold the allegation in confidence and shall place the personal matter on the next Regular or Special Meeting of Council agenda as a matter to be discussed in closed session.
- f. When the matter is addressed at the next Council Meeting in closed session, the party that is the subject of the allegation may ask to have the matter tabled to allow said party to obtain legal counsel. In such case, a second meeting of Council in closed session will be called no sooner than (7) days from the date of the above referenced meeting. The party, so alleged, may then introduce evidence, including witnesses and legal counsel to support their position.

11. CONCLUSION OF INVESTIGATION

- i. Council, having reviewed the complaint and its associated evidence, and having provided the member who is subject to the complaint an opportunity to be heard, shall, in its sole discretion, render a decision as to the validity of the complaint.

- ii. Should Council determine that a Member has not breached the Code of Conduct, or that the complaint was frivolous, the Council will direct the Chief Administrative Office to issue a written response to the complainant detailing that the complaint was reviewed, and no further action will be taken.
- iii. Where Council makes a determination that a breach of the Code of Conduct has occurred, Council shall pass a resolution in open session as to the outcome of the investigation and the consequences of the breach.
- iv. Any consequences imposed must be permitted by law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.
- v. Council may impose any of the following, or combination thereof, as a result of a breach of the Code of Conduct:
 - a. A reprimand;
 - b. Suspension of the remuneration paid to the member in respect of his/her services as a member of Council or Local Board, as the case may be, for a period of up to 90 days;
 - c. Removal from membership from an advisory committee or local board;
 - d. Removal as Chair of a Committee or local board;
 - e. Repayment or reimbursement of monies received;
 - f. Return of property or reimbursement of its value;
 - g. Request for an apology to Council, the complainant, or both.
- vi. All breaches under this policy will be treated fairly and in keeping with the severity of the infraction giving due regard to the individual's previous conduct.

12. REPRISALS AND OBSTRUCTIONS

Members shall 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 investigation is therefore prohibited. It is also a violation of the Code of Conduct to obstruct the investigation.

APPENDIX A
Advisory Committee Members Code of Conduct

The purpose of an advisory committee is to provide informed advice and guidance as well as to facilitate public input to City Council on programs and policies. In recognition of the impartial and objective advice received from advisory committees, as well as the challenges and inherent restrictions placed upon these same individuals in assessing and recommending various options in a conscientious and ethical manner, the following Code of Conduct is provided as a general standard for all advisory committee members to ensure they are acting in a manner that is appropriate with regard to his/her committee.

1. Advisory committee members shall, when conducting committee business, preparing written correspondence, interacting with the media, members of Council, staff or members of the public, act in a manner that accomplishes the following:
 - a. Fulfills the mandate and mission statement of his/her advisory committee;
 - b. Respects due process and the authority of the Chair, Vice-Chair or Presiding Officer;
 - c. Demonstrates respect for all fellow committee members, Council, staff and the public;
 - d. Respects and gives fair consideration to diverse and opposing viewpoints;
 - e. Demonstrates due diligence in preparing for meetings, special occasions or other committee related events;
 - f. Demonstrates professionalism, transparency, accountability and timeliness in completing any tasks or projects undertaken by the committee;
 - g. Conforms with all relevant legislation, bylaws, policies and guidelines; and
 - h. Contributes in a meaningful manner, offering constructive comments to Council, staff and fellow committee members.

2. A member of an advisory committee shall not:
 - a. Place themselves in a position where the member is under obligation to any person who might benefit from special consideration or favour on their part or who might seek in any way preferential treatment;
 - b. accord in the performance of his or her official duties, preferential treatment to relatives or to organizations in which the member, his or her relatives have an interest, financial or otherwise;
 - c. deal with an application to the City for a grant, award, contract, permit or other benefit involving the member, his or her immediate relative;
 - d. place themselves in a position where the member could derive any direct benefit or interest from any matter about which they can influence decisions; and
 - e. benefit from the use of information acquired during the course of his or her official duties which is not generally available to the public;
 - f. make a public statement, including social media post(s), regarding officials or the business of the City which utilizes indecent, offensive, or insulting language.

3. A member of an advisory committee shall disclose immediately to the committee or the Committee Administrator who would disclose to the committee that the member could be involved in either a real or perceived conflict of interest as prohibited by the Code and shall abide by any decision made by the committee with respect to such conflict of interest without recourse.

If a member is perceived or known to have a conflict of interest as prohibited by the Code and has not disclosed this to the committee then that matter may be brought forward for the committee's consideration. When such a matter has been brought forward, the committee, through a majority vote would determine if the member is in a conflict position.

4. Where an advisory committee member believes or has been advised by the committee that they have a conflict of interest in a particular matter he/she shall:
 - a. Prior to any consideration of the matter disclose his or her interest and the general nature thereof;
 - b. Leave the room for the duration of time that the matter is being considered;
 - c. Not take part in the discussion of, or vote on, any question or recommendation in respect of the matter; and
 - d. Not attempt, in any way, whether before, during or after the meeting to influence the voting on any such question or recommendation.
5. Where the number of members who, by reason of conflict, are incapable of participating in a meeting such that the remaining members no longer constitute a quorum then the remaining members shall be deemed to constitute a quorum, provided there are not less than two members present.
6. Should a member of an advisory committee breach any of the clauses set out herein the City Clerk may refer the matter to Council who will consider whether to take any of the possible corrective actions