

Corporation of the Township of North Frontenac

BY-LAW NO. 55-05

Being a By-law to adopt a Code of Conduct for Officials

WHEREAS Section 7.1(1) of the Building Code Act requires the Council of a Municipality to adopt a Code of Conduct for Building Officials;

AND WHEREAS it is the intent of Council to promote appropriate standards of behavior, to promote standards of honesty and integrity and prevent abuse of power or unethical or illegal practices;

NOW THEREFORE the Corporation of the Township of North Frontenac enacts as follows:

1. SHORT TITLE

1.1 This By-law shall be known as the “Code of Conduct By-law”.

2. DEFINITIONS

“**Act**” means the *Building Code Act*, 1992, S.O. 1992, Chapter 23, as amended.

“**Officials**” means a person(s) appointed by By-law of the Corporation of the Township of North Frontenac pursuant to Section 3 of the Building Code Act, 1992, S.O. 1992, Chapter 23, as amended, for the purposes of the enforcement of the Act.

“**Corporation**” means the Corporation of the Township of North Frontenac.

3. PURPOSE

The purpose and intent of the Code of Conduct is to establish standards for ethical and interpersonal behavior for the Officials that may from time-to-time be appointed for the purposes of administering and enforcing the Act.

4. APPLICATION OF CODE OF CONDUCT

4.1 The Officials shall comply with the Code of Conduct set out in Schedule ‘A’ to this By-law.

5. EFFECTIVE DATE

This By-law comes into force on the day that it is passed.

6. DISTRIBUTION

The Clerk of the Corporation is hereby directed to make the contents of this By-law and the Code of Conduct available to the public upon request as required by the Act.

Read a first and second time this _____ day of November, 2005.

Read a third time and adopted this _____ day of November, 2005.

Mayor

Clerk

Certified that the above copy is a true copy of By-law No. 55-05 as enacted and passed by the Council of the Corporation of the Township of North Frontenac on the _____ day of November, 2005.

Clerk

SCHEDULE 'A'

CODE OF CONDUCT

INTRODUCTION

Those in local government are in the tier of government 'closest to the people'. The services municipal employees deliver and their behavior are generally highly visible to citizens of the community. This is particularly true for officials who are out and about daily in the community working with homeowners and the building industry. Not only do our officials have to be doing the right thing, but it is important that they be seen as doing the right thing.

North Frontenac is proud of its organization and the services it delivers to the citizens of the community. It recognizes that it is only through the commitment and effort of our officials and indeed, each employee that the excellent quality of these services is achieved and that public trust is maintained. Employees are therefore expected to demonstrate the highest standards of behavior and ethics in working with the public. The Code of Conduct is intended to set a standard of behavior for employees in working with Council, the public and the building industry to achieve safe construction through the administration and enforcement of the Building Code Act and the Building Code.

CODE OF CONDUCT

The key ethics principles of the Code are:

1. Respect for the law and system of government
2. Respect for persons
3. Integrity
4. Diligence

The Officials shall uphold the ethics through the following Code of Conduct:

Respect for the law and system of government shall be carried out

By upholding the law including the Building Code Act, the Building Code, the Building By-law, Council by-laws, policies and procedures, the Code of Conduct and other applicable provincial or federal laws.

By giving and obeying lawful instructions.

By respecting the policies and decisions of Council or a directive of the municipality's Chief Administrative Officer and carrying out those decisions or directives faithfully and impartially.

By doing nothing to deliberately impede the implementation of a lawfully taken decision.
By providing Council, municipal staff and the public with professional and independent advice.

By maintaining confidentiality where required.

Respect for Persons

By treating members of the public, councillors, other employees and the staff of other outside agencies honestly, fairly and with respect, and with proper regard for their rights and obligations.

By ensuring that the public, councillors and other employees get the help and information to which they are entitled.

By not harassing or discriminating against others nor operating in a manner that is derogatory to the dignity of Council, municipal staff or other officials or individuals.

By respecting the professional opinion of other officials and by design professionals, engineers, architects or other professionals when evaluating their work and by showing evidence of objectivity in the review of their work or opinions.

By exercising powers fairly, equitably and with good judgement.

By understanding, appreciating and accommodating cultural differences and people with disabilities in the community.

Integrity

By conducting affairs, making decisions and carrying out work in a way that enhances public trust and confidence in the administration and enforcement of the Building Code Act and the Building Code and related or applicable law.

By acting honestly at all times.

By not improperly disclosing official information which may be confidential except in accordance with the Freedom of Information and Protection of Privacy Act.

By not misusing or abusing official powers or resources.

By avoiding any unethical, illegal or dishonest conduct or conduct that may be deceitful or create a conflict of interest or a pecuniary interest (other than his/her salary/benefits).

By upholding the public interest while at the same time advising the Chief Administrative Officer and/or Council of fraudulent or corrupt behavior by a member or members of the public.

By not undertaking to do work for a member of the public for which the Officials would otherwise review or make a decision on in the capacity as an Official for the Township of North Frontenac.

By not accepting anything of value, or promise anything of value from any person when it could appear that the offer is made for the purpose of influencing the Official as an advisor or decision-maker.

Diligence

By exercising proper and due diligence, care and attention and professionalism when carrying out the duties and responsibilities as the Officials, or where applicable, appointed officials.

By actively seeking input on all issues and allowing people who may be affected by a decision, the opportunity to make their views known.

By obtaining the best possible advice or information, by conducting the necessary research adequate for the circumstances and by using the best possible judgement in making decisions and recommendations.

By providing the highest possible standards of customer service and public administration.

By responding to requests in a timely manner and, where applicable, in accordance with the time lines set out in the Building Code.

By achieving and maintaining professional accreditation as Officials and by informing the Chief Administrative Officer of circumstances where the Officials do not have the appropriate certification and will require outside resources to administer and enforce the Building Code Act and Building Code.

POLICIES AND GUIDELINES FOR PRACTICE

An Official is often the sole individual in a municipality to ensure that buildings are safe to live or play or work in. Consequently, Council and members of the public place a heavy reliance on the Officials to make the best decision when it comes to issuing a building permit, conducting an inspection or enforcing the Building Code. Officials are expected to demonstrate a ‘duty of care’ by being diligent and thorough about the work they perform.

The following is intended to provide policies and guidelines for day-to-day practice in administering and enforcing the Building Code Act, the Building Code and other applicable law.

Professional Development

Policy: Officials will maintain a proper level of education and training to enable himself/herself to adequately perform the required job responsibilities.

To ensure that the Officials are competent to exercise their responsibilities, ongoing professional training and career development will be necessary. Officials should ensure that they are properly certified under provincial legislation i.e. they should never stop learning. This includes updating and refreshing skills from time-to-time.

Good practice means activities such as reading technical articles, reviewing the Ministry of Municipal Affairs and Housing website for current Building Code Commission decisions, keeping abreast of changes to legislation and guidelines, reviewing the OBOA website, the Journal and participating in the local OBOA chapter. The Officials should inform the Chief Administrative Officer of relevant publications the municipality should subscribe to and courses or training sessions or conferences that he/she should attend. The Officials should also build a network or professional relationship with other Officials and the building industry as a means to answering technical or procedural practices or to benefit from their experience.

The Officials should gradually develop an in-house reference library to provide a source of technical information and to assist the public by providing examples. Most importantly, this library must be updated with the latest versions of the Building Code Act, Building Code and

municipal planning documents such as the Official Plan, Zoning By-law and building-related Municipal Act by-laws.

Record Keeping

Policy: The Officials will develop and maintain a records management system appropriate to the processing of building permits and conducting building inspections.

Good records management is the key to making the right decisions and to minimizing the legal exposure of the municipality from law suits. This means organizing and keeping building files, requiring an adequate number of copies of plans and reports to support the issuance of a permit, scheduling and tracking inspections and maintaining detailed reports. Hard copies of records should be kept for a minimum of seven years and then archived electronically. Notes to file and inspection reports should be dated and should be detailed enough for anyone to take over the file on a moment's notice. The paper trail should be totally transparent between the time the applicant files an application and the time the permit is signed off after a final inspection/occupancy.

Good practice means having applicants file complete applications, by indexing building/property files for easy filing and retrieval, by completing inspection and other reports immediately after inspections are conducted and by providing affected parties with copies or notices. This includes a system whereby the applicant or builder knows when an inspection has been made irrespective of whether he/she is on site when the inspection was conducted. Monthly filing of building permit activity reports is expected as is informing MPAC of permit activity.

Plan Review

Policy: All plans will be reviewed for compliance to the Building Code and other applicable law. Compliance is key to safe construction. The Officials must ensure that two complete sets of plans are filed with the application. One copy may suffice for minor permits such as a deck. The review of building plans shall include as an objective, compliance with the Building Code, the Zoning by-law, a registered site plan and other applicable law.

Good practice includes using a checklist to review plans, by ensuring that notes or marks or stamps are identical for all copies that are reviewed, that the applicant/builder receives a copy of the reviewed plans and that changes or corrections are discussed and agreed to (usually) before the permit is issued. Severely deficient plans should be refused and returned to the applicant for re-submission.

Inspections

Policy: Inspections shall be undertaken as mandated by the Building Code and shall include follow-up inspections where necessary to ensure compliance.

On-site field inspections during construction are essential to determining if a building is actually constructed in accordance with the Code. Applicants shall be informed of the required

inspections and that 48 hours advance notice must be given prior to the inspection. For water-based inspections, applicants are to be advised that they must provide safe transport (water taxi) for the Officials. Applicants must be advised that they may be subject to a surcharge for extra inspections when the scheduled inspection cannot be completed because the work is incomplete or deficient. For buildings or building systems that require compliance reports, applicants must provide such reports in advance of an inspection. Inspection reports shall be completed for each inspection and a copy provided to the applicant/builder where one or more deficiencies are identified. Applicants should be informed that they may be required to provide a legal survey of the building foundation to assess compliance with the zoning by-law or that elevations are above any prescribed flood elevation.

Voluntary compliance should be a key objective through discussion with the proponent. However, an order to comply, stop work order or unsafe construction order may be necessary. Where an order is issued, the Chief Administrative Officer should be informed.

Good practices include maintaining an inspection log book where administrative staff and/or the building inspector log inspection requests and inspection time, permit number, date and results. The inspection report should be detailed enough to identify the deficiency and the Section of the Code that applies. Information left on-site should enable the applicant/builder to know when the inspection was conducted, the result and a phone number to call. A copy of the inspection report should always be placed in the building/property file.

Working With The Public

Policy: The Officials shall maintain a high level of customer service and good public relations with the public.

As a front-line person for the municipality, the Officials create an image that people will identify with as to how the municipality is administered and works with its residents. Officials who come across as being confident, trustworthy, courteous and problem solvers will garner considerable respect from the public. Good people skills are important, because people have bad days, are often not familiar with the Code or the building permit process and may feel the municipality is treading on their turf. It is important that the Officials remain courteous despite what may arise. The Officials should not use offensive language, should not intimidate or deliberately upset and inconvenience anyone.

Good practice means clear and thorough explanations so that people know what is expected of them and why compliance is required. It means being firm but fair. It means knowing when to back off when someone is particularly belligerent or is having a bad day. Ultimately it means solving problems for people and with people. Voluntary compliance should always precede legal compliance and when there is a need for a legal course of action, the process should be first discussed with the Chief Administrative Officer and possibly Council, depending on the severity of the action required.

BREACH OF THE CODE BY OFFICIALS

The Chief Administrative Officer is responsible for the administration of the Code of Conduct. An alleged breach of the Code must be filed in writing by the complainant. A complainant may be a member of Council, a member of municipal staff or a member of the public. When a complaint is filed, the Chief Administrative Officer shall vet the complaint and shall seek an opinion from the Municipal Solicitor if the complaint is an alleged criminal act. The Chief Administrative Officer shall approach the complainant to seek further information about or verify the nature and details of the complaint where deemed necessary.

Upon the vetting of the complaint the Chief Administrative Officer shall inform the Officials that a complaint has been filed and shall provide an opportunity for the Officials to provide an explanation. If the Chief Administrative Officer is of the belief that the complaint is of no meaning or is vexatious and/or is satisfied with the explanation of the Officials, the complaint shall be dismissed.

If the Chief Administrative Officer is of the belief that the alleged breach represents criminal behavior, and is not satisfied with the explanation of the Officials, the Chief Administrative Officer shall consult with Council based on the opinion of the Municipal Solicitor.

For any other complaint that is, in the opinion of the Chief Administrative Officer to be valid, the Chief Administrative Officer shall strike a Disciplinary Committee of the Official's peers i.e. Officials from adjacent municipalities. The Disciplinary Committee shall consist of three members and decisions thereof shall be by a unanimous vote. The Disciplinary Committee shall hold a hearing at which the complainant and the Officials shall be granted the right to submit evidence. The Committee may allow cross examination. The Committee may make a decision or reserve its decision and shall report their decision, when rendered, to the Chief Administrative Officer together with a recommendation on disciplinary action, if any. Depending on the nature of the breach, sanctions may be applied and may include counseling, disciplinary action (including a reprimand, a suspension or termination of employment). The Disciplinary Committee, in their discretion, may also dismiss the complaint. The Committee's decision may be appealed to a Court of proper jurisdiction, but in the absence of an appeal within 30 days from the date of the decision, the decision of the Disciplinary Committee shall be final and binding.

POSTING THE CODE OF CONDUCT

In accordance with section 7.1 (4) of the Building Code Act, the Chief Administrative Officer shall ensure that the Code of Conduct is brought to the attention of the public.