

**THE CORPORATION OF THE
MUNICIPALITY OF WAWA**

BY-LAW NO. 3357-20

BEING A BY-LAW to adopt Municipality of Wawa Policy No. HR-009: Code of Conduct and Ethics for Employees.

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

AND WHEREAS Section 10 (2) of the *Municipal Act, 2001*, provides that a single-tier municipality may pass by-laws respecting health, safety and well-being of persons;

NOWHEREFORE the Council of The Corporation of the Municipality of Wawa enacts as follows:

1. **THAT** Policy No. HR-009 herein attached as Schedule "A" to this By-Law and forming an integral part of this By-Law, be adopted as Municipal Policy on Code of Conduct and Ethics for Employees.
2. **THAT** the Mayor and Clerk be and they are hereby authorized to sign this By-Law and to affix the corporate seal thereto.
3. **THAT** this By-Law is enacted upon the third and final reading hereof.

READ a first, second and third time and be finally passed this 17th day of November, 2020.





RON RODY, MAYOR



CATHY CYR, CLERK



The Corporation of the Municipality of Wawa

Policy Manual

POLICY TITLE:	Code of Conduct
SUBJECT:	Code of Conduct and Ethics for Employees
POLICY NO.	HR-009
EFFECTIVE DATE:	November 17, 2020
ENACTED BY:	By-Law No. 3357-20

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1. Policy Purpose

The Municipality of Wawa expects its employees to conduct themselves in a professional and ethical manner that reflects the Municipality's commitment to the principles of honesty, transparency, integrity, trustworthiness, fairness and professionalism in delivering services to the public and in their interactions within the workplace. All employees must follow standards of ethical and professional behaviour during their employment with the Municipality to ensure that public confidence and trust is maintained. This Code of Conduct establishes expectations for ethical conduct and establishes standards designed to promote and protect the public interests and enhance public confidence and trust in the integrity, objectivity and impartiality of municipal employees.

2. Applicability

This policy shall apply to all employees of the Municipality of Wawa, including regular, part-time, temporary, seasonal, contract and summer students and includes the members of the Wawa Volunteer Fire Department.

This policy is intended to supplement any other requirements imposed by applicable legislation, standards of professional practice, or any other requirements imposed by relevant municipal policies.

3. Definitions

3.1 “**Confidential Information**” includes but is not limited to:

- a. Any information in the possession of, or received in confidence by the Municipality, that it is prohibited from disclosing, or has decided to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or any other law;
- b. Information of a corporate, commercial or technical nature received in confidence from third parties; personal information; information that is subject to solicitor-client privilege; information concerning any personnel, labour relations, litigation, property sale or acquisition, security of property of the Municipality; any other information lawfully determined by the Council or Board to be confidential;
- c. Information about litigation, negotiation or personnel matters;
- d. Information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence).

3.2 “**Conflict of Interest**” means a situation in which private or personal considerations, including pecuniary interests and personal interests, could affect an employee's judgment in acting in the best interests of the Municipality's and the public's interest.

- 3.3 **“Employee Misconduct”** means business-related wrongdoings including but not limited to any criminal, fraudulent, illegal or dishonest activity and constitutes a breach of trust.
- 3.4 **“Ethical Behaviour”** means the application of moral principles, standards of behaviour and a set of values regarding proper conduct in the workplace. This includes the principles of conduct governing the Municipality’s employees based on honesty, transparency, integrity, trustworthiness, objectivity, diligence, respect, accountability and ethical behaviour.
- 3.5 **“Gifts and Benefits”** means any gift, payment, favour or any form of entertainment from a client offered to an employee and/or accepted by an employee.
- 3.6 **“Pecuniary Interests”** means interests that have a direct or indirect financial impact and include any matter in which an employee has a financial interest or in which the employee is a partner of a person or is in the employment of a person that has a financial interest, or in which a parent, spouse, same sex partner or child of an employee has a financial interest, if known to the employee.
- 3.7 **“Personal Interests”** means forms of advantage other than financial such as seeking employment, an appointment, promotion or transfer with the corporation on behalf of a family member.
- 3.8 **“Political Activity”** includes, but is not limited to, being a candidate for elected office, campaigning for a candidate for elected office, fundraising for an election campaign, promoting a political party or cause.

4. Policy – General

4.1 Employee Conduct

All employees shall serve each other, members of Council and all customers and clients with honesty and integrity and in a fair, courteous and professional manner. The following outlines are example standards of expected behaviour;

- Performing job responsibilities as assigned and within legislated and prescribed laws.
- Understanding and adhering to all municipal bylaws, policies and procedures.
- Implementing directions assigned by Supervisors in an efficient and effective manner.
- Working with employees and others to foster a positive team environment based on trust, honesty, safety, integrity, transparency, and accountability.
- Treating the public and each other with diplomacy, tact, objectivity, fairness and respect.
- Effectively and efficiently using all municipal resources, public funds, and property for its intended purposes.
- Declaring all real or perceived conflicts of interest.

- Maintaining strict rules of confidentiality.
- Adhering to this Code of Conduct and reporting any contraventions of this Code to the appropriate authority in a timely manner.

4.2 Conflict of Interest

Employees should avoid situations where their personal interests or the perception that their personal interests could influence any decisions they make on behalf of the Municipality. Any employee obligation, interest or participation which would or could interfere with the best interests of the Municipality or the employee's independent exercise of judgment on behalf of the Municipality constitutes a conflict of interest. Employees should disclose any obligation, interest or participation that would constitute a conflict of interest to their direct Supervisor. A conflict of interest includes the following without limitation:

- a) Engaging in any business or transaction or having financial or other personal interest which is incompatible with the discharge of an employee's official duties;
- b) Any activities which adversely interfere or conflict with an employee's regular duties at the Municipality;
- c) The use of municipal equipment, tools, materials, property or information in any form whatsoever, in the pursuit of supplementary employment including self-employment or personal benefit;
- d) Any activities, representations or conduct outside of the course of employment which could appear to be official acts of the Municipality of Wawa or could appear to represent the opinion or policy of the Municipality of Wawa; and/or
- e) The purchase of goods or services from any Municipality of Wawa employees or any business entity in which the employee has a direct or indirect financial interest or over which the employee exercises control or direction.

In relation to this policy, employees shall make prompt and full disclosure in writing to their direct Supervisor.

An employee who, during his or her employment, seeks to advance a direct or indirect personal interest commits a breach of trust. A breach of trust would include, without limitation:

- i. Influencing or attempting to influence the Municipality to contract with a person, partnership or corporation for any purpose in which the employee has an interest;
- ii. Accepting from any person or corporation any profit, commission or other payment or favour in the way of price or other advantage where the person or corporation has had, has presently, or may reasonably have contact with the Municipality, or is seeking any decision, act, advice, comment, endorsement from the Municipality.

- iii. Accepting for any person or corporation any share of profit, commission or other payment or favour in way of price or other advantage for referral of third parties to any such person or corporation.

4.3 Confidentiality of Information

Employees must not disclose, communicate or convey, directly or indirectly, confidential information for the use for personal advantage to which they have access unless authorized to do so.

All employees, by virtue of their position, will not allow any person or persons access to any record, written statement, department record, roll, correspondence, plan, computerized record, document or any other paper of a private or confidential nature and will conscientiously endeavor to prevent any person not entitled from inspecting or having access to any such confidential information.

Care should be exercised in releasing information relating to the following matters:

- i. Items under litigation including matters before the Ontario Municipal Board and other Tribunals);
- ii. Personnel matters;
- iii. Information provided by suppliers for evaluations which might be useful to competitors;
- iv. Information which infringes on the right to privacy of others;
- v. Sources of complaints about a variety of matters in which the identity of the complainant is given in confidence;
- vi. Items under negotiation;
- vii. Information supplied in support of license applications, where such information is not part of the public documentation; and
- viii. Schedules of prices in contract tenders.

4.4 Public Relations and Press Releases

Employees shall treat each contact with the public with diplomacy, tact and objectivity and shall recognize that such contacts affect the Municipality's public image.

Employees are encouraged to refer to the CAO any contacts from the media which request opinions or comments on policy, procedure, legal or other important matters. Any other media contacts should be referred to the employee's Supervisor.

4.5 Use of Municipal Property

No employee shall use the Municipality's property, funds, equipment, tools, supplies or services for any personal use, unless approved by Policy or by a direct Supervisor. Exceptions may include use of municipal cell phones and limited personal use of municipal computers in accordance with the Information Technology Acceptable Use Policy.

All employees must ensure the use of municipal property is only used to the extent necessary to carry out assigned duties and job responsibilities. Municipal property shall not be used by employees for personal use or financial gain unless prior approval is secured in writing from the employee's Supervisor and unless such limited use takes place during the employee's personal time.

4.6 Concurrent Employment

Employees shall not take outside employment, including self-employment, if such employment:

- i. Causes a real or apparent conflict of interest; or
- ii. Is performed in such a way as to appear to be an official act of or to represent the Municipality; or
- iii. Interferes with regular duties in any way or involves the use of Municipal premises, resources or equipment including but not limited to Municipal email, telephones, cell phones or supplies.

Where it appears that a conflict of interest might arise in accepting outside employment, employees must notify their Supervisor in writing of the nature of such outside employment and receive written permission prior to the acceptance of such employment.

4.7 Gifts and Benefits

Employees should not solicit or accept any gift, present, favor or any form of entertainment where its acceptance would place the employee under obligation or compromise. Any gifts, payments, tickets or other items received should be returned to the sender with an acknowledgement and with reference to this Policy. Employees should seek guidance from their Supervisor if they need clarification on accepting any benefit.

4.8 Alcohol, Cannabis and Illegal Drug Use

All employees will abide by applicable laws, regulations and this Code of Conduct with respect to the possession or use of alcohol, recreational cannabis and illegal drugs in the workplace.

Employees shall not consume, use, possess, or distribute illegal drugs in the workplace at any time. No employee shall use or consume illegal drugs during working hours including meal and coffee breaks, whether they are in a workplace.

Employees shall not consume, use, possess or distribute recreational cannabis in the workplace at any time. No employee shall use or consume recreational cannabis during working hours including meal and coffee breaks, whether they are in a workplace.

No employee shall consume, use, possess or distribute alcohol in the workplace unless the employee is required to possess or distribute alcohol as part of his/her duties at an approved licensed event or work site.

The Municipality is committed to providing accommodation where required and in accordance with the Human Rights Code. The Municipality may require medical evidence to support any accommodation request.

No employee may use any drug, whether prescription or non-prescription or cannabis for any medical purpose where the use of such substance may interfere with the health and safety of the workplace or the employee's duties.

5. Responsibilities

The observance of this Code of Conduct constitutes a condition of employment for all municipal employees. All employees have a responsibility and obligation to adhere to this Code of Conduct and the standards and principles set out within it. Any employee who fails to act in accordance with the provisions of this Code will be subject to appropriate disciplinary action, up to and including termination of employment.

5.1 Management staff responsibilities include:

- 5.1.1. Promote an environment in which employees demonstrate standards of ethical and professional behavior;
- 5.1.2. Take appropriate steps to ensure employees are aware of and act in compliance with this Code of Conduct and related policies;
- 5.1.3. Demonstrate behaviours that are consistent with the Code of Conduct;
- 5.1.4. Support staff members in the adherence to the Code of Conduct;
- 5.1.5. Promote a safe and healthy workplace which promotes reporting of issues and incidents with no fear of reprisal or retaliation, where the complaint is not vexatious or made maliciously;
- 5.1.6. Establish and maintain adequate systems, procedures and controls for the operation which supports compliance with this Code of Conduct;
- 5.1.7. Deal in a fair and expeditious manner with any issues or allegations of Code of Conduct violations, in consultation with the CAO; and,
- 5.1.8. Begin an investigation into an allegation or complaint within ten (10) business days or as soon as possible after receiving an allegation or complaint in writing which is signed by the complainant.

5.2 Employee responsibilities include:

- 5.2.1. Provide a yearly acknowledgement and sign-off that they have read and understand the Code of Conduct and that they agree to comply with its provisions.
- 5.2.2. Seek clarification from their Supervisor or CAO if uncertain about any information contained in the Code of Conduct.
- 5.2.3. Adhere to the standards of behaviour outlined in this Code of Conduct.

6. Complaint Procedure - Reporting and Investigation

- 6.1. Employees or members of the Public who have reasonable grounds to believe a violation of the Code of Conduct has occurred should report such activity or behaviour, in writing, to their Supervisor, Manager, Director, or the CAO, as appropriate.
- 6.2. Supervisory and management staff shall take all appropriate steps to prevent and stop Code of Conduct issues which come to their attention.
- 6.3. Any supervisory or management staff member who is subject to, witnesses, or is given a written complaint of a Code of Conduct breach or violation shall work to minimize or eliminate the issue at hand. In the event that this is not possible with available resources, the management staff is required to report the conflict to the CAO.
- 6.4. All investigations will be conducted in a thorough, fair and objective manner. All complaints and investigations will be conducted by the immediate Supervisor of the individual the complaint is made about, unless the complaint is about or involves the immediate Supervisor. In that case, the complaint will be directed by the CAO or Mayor and Council.
- 6.5. The CAO or Mayor and Council may create an investigation team, and/or the CAO, Mayor and Council may hire a third-party investigator when warranted. The investigation team may recommend the hiring of a third-party investigator, when warranted.
- 6.6. Findings of any investigation will be reported to the CAO, or in the case of the CAO, to Mayor and Council.
- 6.7. If the outcome of an investigation finds the offender guilty of wrongdoing, the offender is subject to disciplinary action up to and including termination of employment and prosecution.

7.0 No Retaliation or Reprisal

- 7.1. The Municipality will not condone retaliation or reprisal of any kind by or on behalf of the Municipality and its employees against good faith reports or complaints of violation of the Code of Conduct or other illegal or unethical conduct.
- 7.2. All employees must cooperate fully during an investigation of alleged wrongdoing in relation to any activity outlined in the Code of Conduct.
- 7.3. Retaliation or reprisal against a complainant or someone who is a witness or is involved in such investigation is strictly prohibited and will result in appropriate disciplinary action.

8.0 Remedial Action

- 8.1. Any employee who is found to have violated the Code of Conduct may be subject to disciplinary action up to and including discharge from employment.
- 8.2. In addition, complaints which are found to be vexatious, malicious or made in bad faith will result in a penalty against the complainant. The severity of the penalty will be determined based on the seriousness and impact of the vexatious complaint following an investigation which may be subject to disciplinary action up to and including discharge from employment. The CAO, or his/her designate, or when necessary Municipal Council, will make a final decision on whether a complaint is vexatious, malicious or made in bad faith.

9. Limitation Period

An investigation shall not proceed regarding a Code of Conduct complaint received more than thirty (30) days after the date when the event or series of events became known by the complainant. The onus of proof as to the date of discovery lies with the complainant.

10. Non-Compliance with this Code of Conduct - Discipline

Any employee found to have contravened any provision of this Code, may be subject the following consequences:

- a. Discipline of the employee with a warning, suspension or termination;
- b. Reassignment of an employee;
- c. Attendance at counseling regarding the issue which may become a condition of employment;
- d. Retraining of the employee in the relevant areas pertaining to the cause of the actions or conduct; or
- e. Take no action.

11. Severability

The provisions of this Code of Conduct are severable and if any section or word is held invalid or illegal, such invalidity or legality shall not affect or impair any remaining provisions, sections or words.

12. Review

This policy shall be reviewed by each term of Council or as determined necessary by the CAO.

Policy Adoption and Review Guidelines

Date of Adoption by Council	By-Law No.	Date of Most Recent Review by Council	Changes Made Yes/No
November 17, 2020	3357-20	October 6, 2020	New

References to Other Policies or By-laws

Policy Title	Policy No.	By-Law No.
Accountability & Transparency	GG-006	2642-13
Expense Reimbursement Policy	AD-003	3254-19
Discipline Policy	HR-013	2646-13
Hand Held Media Device Usage	HR-019	2312-10
Confidentiality & Non-Disclosure Policy	HR-025	3288-20
Hate Activity	SH-001	1483-02
Health & Safety Policy	PE-006	2041-07

APPENDIX A

Acknowledgement and Agreement Form

I, _____, acknowledge that I have read and understand the Code of Conduct for Employees Policy of the Municipality of Wawa. I agree to adhere to this policy. I understand that if I violate the rules set forth under this Policy, I may face punitive or corrective action, and/or potential legal action.

Further, I understand and acknowledge that a breach of this policy is grounds for discipline up to and including dismissal.

This completed form must be submitted to your Supervisor and a copy provided to the Human Resource Associate to be placed in your personnel file.

Name	
Signature	
Date	
Witness	

Appendix B

Public Complaints Resolution Guideline

Procedure

The following procedure will be followed should a complaint be made by a member of the public respecting an alleged code of conduct violation of a Municipal Employee.

1. How to Submit a Complaint

Complaints may be submitted in person, by email or regular mail on the required form (Appendix C). Such complaints will be filed with the Municipal Clerk with a filing fee of \$50.00.

When possible, complaint's regarding municipal employees will initially be directed to the employee's supervisor to assess if an informal resolution may be suitable.

2. Informal Resolution Stage

Complaints about a municipal service may be resolved by way of an informal resolution. Every effort will be made to resolve informal complaints without the need for a formal written complaint.

When a complainant makes a written complaint alleging misconduct by an employee(s) of the Municipality, the matter will be referred to the employee's departmental Supervisor and/or Director.

In the circumstance where a complaint is referred to Municipal Council, they may choose to delegate the responsibility to process the complaint to the Chief Administrative Officer or a Third-Party Investigator.

In the event the complaint is of a serious nature, then the Chief Administrative Officer will be responsible for the investigation process. The CAO may assign the investigation to a designate.

In the event that the matter cannot be resolved, the complainant will be advised, that he/she must submit a complete written complaint to the Clerk, within ten (10) working days of receiving the Municipality's informal resolution response. The details collected at the informal stage may be required if a formal complaint is eventually filed.

3. Formal Complaint

Formal complaints shall be in writing on the required form (Appendix C) and complaints that are anonymous will not be accepted. The Complainant must provide clear written details, supporting documentation and records concerning the complaint before the investigation can be commenced including, but not limited to:

- The employee to whom the complainant relates;
- A description of the employees alleged actions or conduct;
- The affect or potential effect of the alleged actions or conduct to remedy the service;
- Names of any witnesses to the alleged actions or conduct (based on consent to contact); and
- Written material in support of the alleged action or conduct.

A formal complaint must be made no later than thirty (30) days after the facts on which it is based became known, or reasonably ought to have become known, to the complainant. Complaints received after 30 days will not be investigated.

When a formal complaint is received, the CAO, or his/her designate shall decide whether the complaint properly falls within the scope of this guideline. The CAO, or his/her designate, will determine whether:

- the severity of the service issue or infraction against the employee and actions taken to resolve the matter;
- if and how the complainant has been directly affected by the employee's conduct;
- the complaint is frivolous, vexatious, trivial or made in bad faith, or
- this guideline is the appropriate venue through which to consider the complaint, as opposed to any other parallel process that may be underway, regarding the alleged event that lead to the complaint.

The subject employee will be provided with a copy of the written complaint or the portion of the complaint that relates to him/her and will be given the opportunity to address every allegation made against him/her orally and/or in writing.

Representation from Union/Association and/or representation by legal counsel will be permitted. The Investigator will review additional documentary information and will meet with other individuals or witnesses, who have relevant information regarding matters under investigation.

The CAO or his/her designate will provide a written response concerning the complaint, setting out his/her recommendation and investigation results to the Complainant and employee as soon as is reasonable and within sixty (60) days of receipt of the complaint, when possible.

In some instances, a third party may be retained by the CAO or Municipal Council to review the complaint and conduct an independent investigation, prepare a written report and make recommendations to Council regarding the matter.

The CAO or Municipal Council's decision regarding a complaint and remedies will be final and binding, except where the employee has further rights under legislation or common law.

4. Complaints Deemed Frivolous and Vexatious

A complainant will be deemed to be acting in a vexatious manner when they bring one or more actions and complaints to determine an issue that has already been decided. Simply put, bringing up the same issues again and again can be considered vexatious. A vexatious proceeding can also be one that no reasonable person could expect to succeed, or one that is brought for an improper purpose. An improper purpose could include the harassment of other parties, or to drain the employer's resources.

A frivolous action is one that is readily recognizable as (being) devoid of merit, and that has basically no prospect of success. It means a Complaint that is reasonably perceived by the Municipality to be without reasonable or probable cause, without merit or substance, or trivial.

The CAO and/or Council will make determinations when a complaint is deemed frivolous and/or vexatious and such complaints will not be investigated.

5. Confidentiality

The complaint resolution process will be considered confidential. Complainants, respondents and witnesses will be advised to maintain confidentiality concerning complaints or investigations and will be required to sign an oath of confidentiality.

Appendix C Complaint Form

Code of Conduct for Employees (Policy HR-009)

Name of Requestor	
Address	
Telephone	
Email Address	
It is an offence under the Criminal Code to knowingly swear/affirm a false affidavit.	
I,	<i>(full name)</i>
of	<i>(municipality of residence)</i>
In the Province of Ontario, MAKE OATH AND SAY (or affirm)	
1. I have personal knowledge of the facts set out in this affidavit.	
2. I have reasonable and probable grounds to believe that:	
<i>(specify name of staff member)</i>	
has contravened sections	<i>(specify)</i>
of the Code of Conduct for Employees.	
Date of Incident:	
Time of Incident:	
Location of Incident:	
Name(s), position, contact information (phone number or email address) of all Witnesses to the incident:	
a)	
b)	
c)	
d)	
3. This affidavit is made for the purpose of requesting that this matter be investigated and for no improper purpose.	
List of documents or records that are relevant to the requested inquiry (include document title and date).	
All documents or records considered relevant to the complaint or request for inquiry must accompany this request for investigation form.	

SWORN (or affirmed before me at the
Municipality of Wawa, in the District of Algoma,
this day of 20

A Commissioner, etc.

Deliver request to:
Municipal Clerk
40 Broadway Avenue
Wawa, ON P0S 1K0

Along with applicable fee of: _____

For Office Use Only		
Date Received	File No.	Receipt No.

It is an offence under the Criminal Code of Canada to knowingly swear/affirm a false affidavit.

Schedule “A” to the Affidavit of: _____

(Insert additional sheets if required)

SWORN (or affirmed before me at the
Municipality of Wawa, in the District of Algoma,
this day of 20

A Commissioner, etc.