



## **City of Belleville**

**Subject: Code of Conduct for Members of Council and Local Boards**

**Dated: January 2020**

**Revised:**

### **1.0 PURPOSE AND POLICY STATEMENT**

The Corporation of the City of Belleville is committed to achieving the highest quality of municipal administration and governance by encouraging high standards of conduct on the part of all elected officials and members of its Local Boards. A code of conduct aims to ensure public trust and confidence in the Municipality's decision making and operations. The public should expect the highest standards of conduct from the members they elect to local government, as well as members serving on Local Boards, Commissions and Committees. In turn, adherence to these standards will protect and maintain the Municipality's reputation and the integrity of its decision-making process.

### **2.0 STATUTORY PROVISIONS REGARDING CONDUCT**

In addition to the Council Code of Conduct, Members are required to comply with existing provincial and federal legislation, including but not limited to:

- a) Municipal Act;
- b) Municipal Conflict of Interest Act;
- c) Municipal Elections Act;
- d) Municipal Freedom of Information and Protection of Privacy Act;
- e) Ontario Human Rights Code;
- f) Ontario Occupational Health and Safety Act;
- g) Criminal Code of Canada; and
- h) The Accessibility for Ontarians with Disabilities Act.

### **3.0 APPLICATION**

This Code of Conduct applies to all Members of Council, including the Head of Council. It also applies equally to all Members of Local Boards, Commissions and Committees of the Municipality, whether or not a Member of that Local Board or Committee is also a Member of Council.

#### 4.0 DEFINITIONS

In this Code of Conduct, the following terms have the meanings set out below:

- a) **“Chief Administrative Officer” or “CAO”** means the employee who is responsible for exercising general control or management of the administration and affairs of the Municipality and other duties as directed by Council.
- b) **“Child”** includes a child born within or outside of marriage and includes an adopted child and a person to whom the Member has demonstrated a settled intention to treat as a child of his or her family.
- c) **“Closed/In-Camera Meeting”** means any meeting of Council, Committee of the Whole, Standing Committee or Board that is closed to the public in accordance with the *Municipal Act, 2001*.
- d) **“Confidential Information”** includes information in the possession of, or received in confidence by the Municipality, that the Municipality is prohibited from disclosing, that the Municipality is required to refuse to disclose, or that the Municipality chooses not to disclose, under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), or other legislation or policy of the Municipality. Without limiting the generality of the foregoing, Confidential Information also includes all information concerning matters dealt with at Closed Meetings, information that is marked as "confidential", information obtained by the Member by virtue of their position as a Member that is not in the public domain, or information that is otherwise determined to be confidential by the Chief Administrative Officer, Clerk or as specifically declared by Council.
- e) **“Department Head”** means the person or persons in charge of managing a department and the Staff of that department.
- f) **“Council”** means the Council of The Corporation of the City of Belleville.
- g) **“Ethical” or “Ethically”** means behaving in a manner characterized by honesty, fairness and equality in interpersonal relationships and with respect for the dignity and rights of other people.
- h) **“Family Member”** includes any of the following, whether by birth, marriage or adoption:
  - i. A Spouse of the Member;
  - ii. A Child of the Member;
  - iii. A Parent of the Member;
  - iv. A Sibling of the Member, whether by birth, marriage or adoption;
  - v. A Grandchild, grandparent, aunt, uncle, niece or nephew of the Member;
  - vi. A Parent-in-law of the Member; and

- vii. Any person who lives with the Member on a permanent basis.
- i) **“Gift”** means any cash or monetary equivalent, fee, favour, object of value, service, personal benefit, travel and accommodation or hospitality. A gift does not include remuneration.
- j) **“Harassment”** includes, but is not limited to, engaging in a course of vexatious or unwanted comment or conduct that is known or ought reasonably to be known to be unwanted and includes Sexual Harassment as defined in the *Occupational Health and Safety Act*, and in accordance with the City’s Harassment Policy as amended from time to time.
- k) **“Local Board”** means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority, as defined in section 1 and limited by section 223.1 of the *Municipal Act*, as amended from time to time.
- l) **“Member”** includes an elected or appointed member of the Municipal Council and all members of Local Boards of the Municipality, subject only to section 4(k) of this Code of Conduct.
- m) **“Municipality”** means The Corporation of the City of Belleville.
- n) **“Parent”** includes those persons who demonstrated a settled intention to treat as a Child the Member, whether or not the Member is their natural child.
- o) **“Sibling”** means a sister or brother of the Member and includes a sibling who is adopted.
- p) **“Spouse”** means a person to whom the Member is married or with whom the Member is living in a conjugal relationship outside of marriage.
- q) **“Staff”** includes anyone employed by the Municipality, including full-time, part-time, temporary, casual or seasonal Staff, contract Staff, students and volunteers (in accordance with the *Municipal Act*). Council Members are not considered employees of the Municipality.

## 5.0 CONFIDENTIALITY

- 5.1 Every Member must hold in strict confidence all Confidential Information acquired as a direct or indirect result of the Member’s role with the Municipality. Confidential information shall not be disclosed except when required by law, or when authorized by Council or the Chief Administrative

Officer.

- 5.2 Every Member shall keep confidential any information that is:
  - a) disclosed or discussed at a meeting of Council, Committee of the Whole or Committee, Board meeting or part thereof, that was closed to the public;
  - b) circulated to members of Council that is marked confidential;
  - c) received in confidence verbally in preparation for an In-Camera meeting.
- 5.3 Any documentation marked confidential shall be kept secure until no longer required in the course of business and shall at that time be destroyed by the member of Council or returned to the office of the Chief Administrative Officer for destruction.
- 5.4 The obligation to keep information confidential applies even if the Member ceases to be a Member for any reason.

## **6.0 GENERAL CONDUCT**

- 6.1 Every Member has the duty and responsibility to treat members of the public, Staff and each other in a respectful manner, without abuse, bullying, Harassment or intimidation.
- 6.2 A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any member of Staff, or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.
- 6.3 Every Member shall abide by the following principles:
  - a) Members shall at all times act Ethically;
  - b) Members shall perform their functions with integrity, accountability and transparency;
  - c) Members shall comply with all applicable legislation, by-laws and Municipal policies, including this Code of Conduct;
  - d) Members acknowledge that the public has a right to open government and transparent decision-making;
  - e) Members shall at all times serve the interests of their constituents and the Municipality in a conscientious and diligent manner and shall approach decision-making with an open mind; and
  - f) Members shall not extend preferential treatment to any individual or organization.

## **7.0 CONDUCT AT MEETINGS**

Every Member shall conduct themselves with decorum and professionalism at all Council, Committee, Board and other meetings in accordance with the provisions of the applicable Procedural By-law, this Code, and other applicable law.

## **8.0 CONDUCT AT PUBLIC EVENTS**

Members may be requested to make public presentations outside of Council, Committee, Board and other meetings or to attend public events as representatives of the Municipality. At any such event, every Member shall conduct themselves with dignity and decorum, in a manner befitting of a representative of the Municipality.

## **9.0 CONFLICT OF INTEREST**

- 9.1 Members must be familiar with and comply with the *Municipal Conflict of Interest Act*, as amended. It is the responsibility of each Member, not Staff, to determine whether they have a direct or indirect pecuniary interest with respect to matters arising before Council, a Board or Committee. Each Member shall determine whether he or she has a direct or indirect pecuniary interest and shall at all times comply with the Act.
- 9.2 For purposes of this Code, a pecuniary interest, direct or indirect, of a Family Member of the Member shall be deemed to also be the personal/pecuniary interest of the Member. All Members shall declare a conflict of interest where they or their Family Member has a pecuniary interest in a matter and shall take all of the actions prescribed in the *Municipal Conflict of Interest Act* as if the Act applied to that interest.
- 9.3 In addition to pecuniary interests, Members must perform their duties impartially, such that an objective, reasonable observer would conclude that the Member is exercising their duties objectively and without undue influence. Each Member shall govern their actions using the following as a guide:
  - a) in making decisions, always place the interests of the taxpayers and the Municipality first and, in particular, place those interests before your personal interests and the interests of other Members, Staff, friends, business colleagues or Family Members;
  - b) interpret the phrase "conflict of interest" broadly and with the objective of making decisions impartially and objectively;
  - c) do not make decisions that create an obligation to any other person who will benefit from the decision;

- d) do not make decisions or attempt to influence any other person for the purpose of benefitting yourself, other Members, Staff, friends, business colleagues or Family Members, or any organization that might indirectly benefit such individuals;
- e) do not put yourself in the position where a decision would give preferential treatment to other Members, Staff, friends, business colleagues or Family Members, or any organization that might indirectly benefit such individuals; and
- f) do not promise or hold out the prospect of future advantage through your influence in return for a direct or indirect personal interest.

9.4 Direct or indirect personal interests do not include:

- a) a benefit that is of general application across the Municipality;
- b) a benefit that affects a Member or his or her Family Members, friends or business colleagues as one of a broad class of persons; or
- c) the remuneration of Council, a Member or benefits available to Council or Members.

9.5 Every Member has the following obligations:

- a) To make reasonable inquiries when there is reason to believe that a conflict of interest may exist;
- b) To make Council or the Board or Committee aware of the potential conflict of interest and where appropriate declare the conflict of interest;
- c) To refuse to participate in the discussion of Council, the Board or Committee and to not vote on the matter or seek to influence the vote of any other Member where a conflict of interest exists;
- d) To refuse to be involved in any way in the matter once the conflict is identified, including without limitation participating in meetings, facilitating meetings or introductions to Staff or Members or providing advice to any person that would materially advance the matter;
- e) If the matter which creates the conflict of interest is discussed in an In-Camera session, the Member may not attend that portion of the In-Camera session where that matter is discussed; and
- f) At a meeting at which a member discloses an interest, or as

soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the Clerk of the Corporation or the Secretary of the Local Board, Commission or Committee, as the case may be.

## **10.0 COMMUNICATIONS AND MEDIA RELATIONS**

- 10.1 Members, when communicating with the public and media, will accurately and adequately communicate the attitudes and decisions of the Council, Board or Committee, even if a Member disagrees with a majority decision, so that there is respect for and integrity in the decision-making process.
- 10.2 Information related to decisions and resolutions of Council, a Board or Committee, as the case may be, will normally be communicated to the community by the head of Council, the Board or the Committee Chair, as the case may be, or his or her designate.
- 10.3 It is not the intent of this Code of Conduct to restrict the ability of a Member to express a personal opinion on matters of general interest. In such cases, the Member must make it clear that the comment is not being made as a representative of the Municipality.
- 10.4 In no event should a Member express a position that is disrespectful of the decision of the majority of Council, a Board, a Commission, or a Committee.
- 10.5 Any use of social media in any form by a Member constitutes communication with the public that is governed by this Code of Conduct. Members shall identify in any social media communication that the views expressed by the Member are the views of that Member personally, and do not represent the views of the Municipality.
- 10.6 If Council has taken a position in a Court, Local Planning Appeals Tribunal, or other tribunal, and instructed the Municipal Solicitor to appear at a hearing in support of such position, no Member who disagrees with such position shall give evidence at such hearing or otherwise work against the will of Council expressed in its direction to the Municipal Solicitor in such matter.

## **11.0 INTERACTION WITH STAFF**

- 11.1 The Corporation of the City of Belleville will promote a respectful, tolerant, harassment-free relationship and workplace between members of Council and the officers and employees of the corporation.
- 11.2 Members shall not:
- a) maliciously or falsely injure the professional or ethical reputation of Staff;
  - b) compel Staff to engage in partisan political activities or be subjected to threats of discrimination for refusing to engage in such activities; or
  - c) use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any Staff member.
- 11.3 Operational inquiries and complaints received from the public will be addressed by Members as follows:
- a) Members who are approached by the public with inquiries/complaints regarding operational matters may encourage the party to contact the appropriate department in writing for review/resolution;
  - b) where the Member of the public is reluctant to contact the department directly, the Member may take the person's name, phone number and details of the inquiry/complaint and advise them that the matter will be referred to the CAO for review/resolution;
  - c) where the inquiry/complaint is not resolved to the satisfaction of the member of the public, then the Member may refer the member of the public to the CAO to address any further action required if he/she deems it necessary.
- 11.4 Members may recognize and respect that many members of Staff are bound by professional associations to a code of ethics and professional conduct and that they provide their reports and recommendations objectively, in the best interests of the Municipality and within the requirements of their profession.
- 11.5 Municipal Council, acting as a body, through a Council motion, can dictate that Staff perform such duties as are necessary for the efficient management of the affairs of the community, and/or research such matters as the Council deems necessary. Such direction shall be made through the CAO. Individual Council members do not have authority to direct Staff or the CAO.
- 11.6 Local Board and Committee Members do not have the authority to direct



Staff, with the limited exception of any Staff member assigned by Council to that Board or Committee in an administrative capacity only. Ultimately, Council retains the discretion to assign, remove and direct Staff who provide assistance to any Board or Committee. Requests for Staff changes or resources shall be directed to the CAO who shall make Staffing determinations and consult with Council as necessary.

- 11.7 The role of the CAO and Department Heads is to direct the day to day management of the Municipality and assign duties to the Staff placed under their supervision. To encourage the efficient management of the Municipality, individual Members adhere to the following:
- a) Members will respect and adhere to the policies set by Council, and will under no circumstances take it upon themselves, individually, to circumvent established policies.
  - b) Council, as a body, and Members, as individuals, will liaise with the CAO, Department Heads, or Supervisors only. This requirement is not designed to interfere with the normal flow of information with those Staff members (Administrative Assistants, Clerk, Committee Secretaries) who have been assigned the responsibility of providing information to Members such as meeting times, copies of documents, information on standard operating procedures, etc.
  - c) Questions or issues surrounding operational concerns or complaints, excluding the basic issues covered in paragraph 11.3 above, should be directed to the Department Head or Supervisor.
  - d) Members who still have concerns about operational issues, after addressing them with the Department Head or Supervisor, should raise these concerns with the CAO.
  - e) Members who still have concerns about operational issues after addressing them with the CAO should raise these concerns at the appropriate Committee.
  - f) Should information be required by individual Members, a request must be made of the appropriate Department Head who will then decide which Staff member will obtain the data. In the extended absence of the Department Head, or in the case of an urgent matter where the Department Head or Supervisor is not available, inquiries should be directed through the CAO.
  - g) While it is understood that Chairs of Committees and Local Boards must have increased interaction with Department Heads and Staff, Members should respect the time of Staff and should refrain from engaging them in extensive conversations, emails or phone calls that would divert Staff from their duties.

## 12.0 USE OF MUNICIPAL PROPERTY

- 12.1 No Member shall use or permit the use of any Municipal property, equipment, services, or supplies other than for purposes connected with the discharge of Municipal duties or associated community activities of which Council has been advised, unless the use is reasonable and incidental personal use of equipment such as computers, fax machines, cell phones, etc., where the Municipality incurs no additional costs relating to such use, and the use is of limited duration and frequency.
- 12.2 This policy does not apply to the use of Municipal property and facilities where such use is universally known to be available to other residents upon request and on equal terms.
- 12.3 No Member shall obtain financial gain from the use of Municipally 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 Municipality.
- 12.4 Municipal property and resources, including facilities, purchasing provisions, equipment, supplies, Staff (during working hours), and services will not be used for any election campaign activities, before or after Nomination Day. This also prohibits a Member from using:
  - 12.4.1 City-owned electronic devices, including corporate information technology assets, infrastructure, or data (i.e. computers, wireless devices, portals, corporate email, web pages, social media - including Facebook, Twitter and Instagram and blogs), telephone, and voicemail;
  - 12.4.2 City symbols and trade-marks, including on printed and electronic campaign materials;
  - 12.4.3 Communications, publicity, photographic or video material, websites or domain names containing the name, photograph or identity of a registered candidate;
  - 12.4.4 Signs, election promotion in City owned buildings, unless the location is rented according to City procedures and fees, which have been paid from the candidate's election account.
- 12.5 Members will not undertake campaign-related activities on municipal property unless permitted by the returning officer or their designate.
- 12.6 Members will not use the services of Staff for election-related purposes

during hours in which those persons receive compensation from the Municipality. For purposes only of this provision, Staff shall include any person under contract with the Municipality or receiving remuneration from the Municipality for any service.

### **13.0 EXPENSES**

- 13.1 Members are required to adhere to any relevant policies, procedures and guidelines with respect to any expenses including, but not limited to, mileage reimbursement, conference and seminar attendance, and corporate promotional products.
- 13.2 Falsifying of receipts or signatures by a Member is a serious breach of this Code of Conduct and the Criminal Code of Canada and could lead to prosecution.

### **14.0 GIFTS AND HOSPITALITY AND OTHER BENEFITS**

- 14.1 The objective of the Gift provisions is to ensure that Members make Council decisions based on impartial and objective assessments of each situation, free from influence of Gifts, advantages, or benefits of any kind.
- 14.2 Any stipend paid to a Member is intended to fully remunerate the Member for service to the Municipality.
- 14.3 Members are prohibited from soliciting, accepting, offering or agreeing to accept any Gifts, advantages, or benefits of any kind, personally or through a Family Member or associate (business or otherwise), that is connected directly or indirectly with the performance of duties of office or could reasonably be construed as being given in anticipation of future, or recognition of past, special consideration by the Member.
- 14.4 Members are prohibited from accepting, directly or indirectly, Gifts, advantages, or benefits of any kind that are offered by persons, groups or organizations having dealings with the Municipality.
- 14.5 The above policy does not preclude Members from accepting:
  - a) Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee, for speaking at an event or for representing the Municipality at an event;
  - b) Political contributions that are otherwise offered accepted and reported in accordance with applicable law;
  - c) Food and beverages at meetings, banquets, receptions, ceremonies or similar events;
  - d) Food, lodging, transportation, entertainment provided by other

levels of governments, by other local governments or by local government boards, commissions and committees;

- e) A stipend from a board or commission that the Member serves on as a result of an appointment by Council;
- f) Reimbursement of reasonable expenses incurred in the performance of office;
- g) Reimbursement of reasonable expenses incurred, and honorariums received in the performance of activities connected with municipal associations;
- h) Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office;
- i) Services provided without compensation by persons volunteering their time for election campaigns, provided the services are properly valued in accordance with the *Municipal Elections Act*.

14.6 Where it is not possible to decline unauthorized Gifts, Members shall immediately report the matter to the CAO. The Gift shall become the property of the Municipality and the CAO may require that the Gift be retained by the Municipality or be disposed of for charitable purposes in the CAO's sole discretion.

## **15.0 ADVICE AND OPINIONS**

15.1 Members may request advice or opinions from the Integrity Commissioner with respect to:

- a) The obligations of the Member under the *Municipal Conflict of Interest Act*;
- b) The obligations of the Member under this Code; or
- c) The obligations of the Member under a procedure, rule or policy of the Municipality governing the Ethical behavior of the Member.

15.2 Every request for advice or opinion shall be submitted in writing to the Clerk, who shall forward the request to the Integrity Commissioner for a response. In the event that the Member wishes to keep the content of the request confidential, he/she can submit their request directly to the Integrity Commissioner, and advise the Clerk that a request has been made.

15.3 The Integrity Commissioner shall not provide to any Member any advice or opinion with respect to the obligations of another Member.

15.4 Members shall be mindful of the cost to the Municipality to obtain the advice or opinion of the Integrity Commissioner and shall not abuse this entitlement.

- 15.5 The advice and opinions received by any Member are personal to the Member and are considered confidential. No opinion or advice may be shared by the Integrity Commissioner without the written permission of the Member who requested the opinion or advice. The Member has no obligation to share the advice received from the Integrity Commissioner with any other Member or individual.
- 15.6 The Member may grant permission to share part of an opinion or advice, but in circumstances where the Member shares only a portion of an opinion or advice the Integrity Commissioner may release all or a part of the opinion or advice without the consent of the Member.
- 15.7 Council may require any Member to undertake training with the Integrity Commissioner where Council determines that the Member has requested opinions and advice more frequently than is reasonable in the circumstances. The nature of the training will be to better explain the Member's obligations under this Code and the *Municipal Conflict of Interest Act* to better enable the Member to govern his or her conduct without seeking advice unnecessarily.

## **16.0 ROLE OF THE INTEGRITY COMMISSIONER**

- 16.1 The Integrity Commissioner shall be appointed by By-law of the Municipality.
- 16.2 The Integrity Commissioner shall operate independently of Council in accordance with all of the authority and powers granted by the *Municipal Act* and the *Public Inquiries Act*.
- 16.3 The Integrity Commissioner may delegate his or her duties and powers to any person, other than a Member. The delegation shall be in writing, shall be disclosed to the Clerk and shall set out the precise delegation, including the duration of the delegation.
- 16.4 Any delegation shall be at the sole discretion of the Integrity Commissioner, provided that the delegate is qualified and capable of independently undertaking the work.
- 16.5 The Integrity Commissioner shall make an assessment prior to undertaking any investigation as to whether the complaint gives rise to the need for another entity to undertake an investigation. In those circumstances where the allegations disclose a potential Criminal Code offence or the breach of other legislation (other than the *Municipal Conflict of Interest Act*), the Integrity Commissioner shall refer the investigation to the appropriate entity and shall not conduct his or her own investigation unless the entity determines that no investigation is required.

- 16.6 The Integrity Commissioner shall prepare and submit to Council an Annual Report that shall include at a minimum:
- a) A break-down of costs incurred for the following categories of work performed (advice/investigations/dispute resolution/training);
  - b) A summary of the nature of requests made and the resolution of the matters, without providing any Confidential Information in the Report; and
  - c) Any recommendations for improvements to this Code or processes or any procedure, rule or policy of the Municipality governing the Ethical behavior of Members.

## **17.0 ENFORCEMENT AND SANCTIONS**

- 17.1 Every Member shall comply with the Code of Conduct and the MCIA. Any breach of the Code or the MCIA may be the subject of an investigation or inquiry by the Integrity Commissioner.
- 17.2 Every Member has an obligation to cooperate with any investigation or inquiry.
- 17.3 The *Municipal Act* authorizes Council to impose one or more of the penalties listed below, if so desired, on a Member that has contravened the Code of Conduct:
- a) A reprimand; or
  - b) Suspension of the remuneration paid to the Member in respect to his or her services as a Member of Council, local Board or Committee, as the case may be, for a period of up to 90 days.
- 17.4 The Integrity Commissioner may also recommend that Council impose any of the following sanctions in relation to a breach of the Code of Conduct:
- a) Written and/or verbal public apology;
  - b) Return of property or reimbursement of its value or of monies spent;
  - c) Removal from membership of any Committee or Board;
  - d) Removal as chair of a Committee or Board;
  - e) Other sanctions that are reasonably connected to the breach of the Code of Conduct and which the Integrity Commissioner believes in his or her sole discretion are necessary to modify the behavior of the Member.

## **18.0 NO REPRISAL OR OBSTRUCTION IN THE ENFORCEMENT OF THE CODE**

Every Member must respect the integrity of this Code of Conduct and inquiries and investigations conducted under it, and shall co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat of reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of this Code of Conduct to obstruct the Integrity Commissioner in the carrying out of any of his or her responsibilities, including without limitation destroying or failing to disclose relevant information.

## **19.0 COMPLAINT PROTOCOL**

Appendix I outlines the informal and formal complaint procedure that shall be followed for complaints under the Code of Conduct and MCIA.

### **(a) Code of Conduct**

Any person who has reasonable grounds to believe that a Member has breached this Code of Conduct may proceed with a complaint and request an investigation. Complaints must be submitted within ninety (90) days after the alleged violation occurred or the alleged violation came to the attention of the complainant. No complaint may be filed under any circumstances where the alleged violation occurred more than six (6) months prior to the complaint being filed.

### **(b) Municipal Conflict of Interest Act**

An elector, as defined in section 1 of the MCIA, or a person demonstrably acting in the public interest may apply in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of that Act by a Member, and such request must be made within six weeks after the applicant became aware of the alleged contravention.

### **(c) Election Period**

On or after Nomination Day until the end of Voting Day in the year of a municipal election:

- i. no complaint under the Code or application under the MCIA shall be filed;
- ii. the Integrity Commissioner shall not report to the Municipality about an ongoing investigation or inquiry;
- iii. the Municipality shall not consider whether to impose any penalty recommended by the Integrity Commissioner pursuant to a Code of Conduct investigation;
- iv. the Municipality shall not make recommendations to the Integrity Commissioner on whether or not he should apply to a judge for a

determination of whether or not a Member contravened the MCIA pursuant to an inquiry under the MCIA;

- v. Where an inquiry under the MCIA or investigation under the Code of Conduct has not been completed before Nomination Day in an election year, the Integrity Commissioner shall terminate the inquiry or investigation on that day;
- vi. An inquiry or investigation terminated pursuant to paragraph (v) shall not be recommenced unless the applicant/complainant, or the Member whose conduct is at issue, applies in writing to the Integrity Commissioner to recommence the inquiry or investigation within six weeks after voting day in a regular election;
- vii. In the event that an applicant under the MCIA became aware of the alleged contravention within the period of time starting six (6) weeks before Nomination Day in an election year, the applicant may apply to the Integrity Commissioner within six (6) weeks after Voting Day, provided that the applicant includes in their written request for an inquiry a statutory declaration attesting to the fact that they became aware of the contravention not more than six (6) weeks prior to Nomination Day.



**APPENDIX I  
COMPLAINT PROTOCOL FOR COUNCIL AND LOCAL BOARD CODE OF  
CONDUCT**

***Part A: Informal Complaint Procedure***

**Step 1 – Conflict Resolution by Individuals**

1. Informal complaints can be addressed by any person who believes that the activity of a Member has breached this Code of Conduct or the *Municipal Conflict of Interest Act*, but the person does not want to initiate a formal complaint. Any person may:
  - a) Advise the Member that his or her behavior or activity appears to constitute a contravention;
  - b) Encourage the Member to acknowledge and agree to stop the prohibited behavior or activity and avoid future occurrences of the prohibited behavior or activity;
  - c) Where the Member agrees to cease the behavior, confirm in writing that the agreement is satisfactory;
  - d) Where the Member's response is not satisfactory, advise the Member of your dissatisfaction with the response; and
  - e) Consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B where informal resolution has not been successful.
  
2. Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying behavior or an activity that they believe amounts to a contravention.

## ***Part B: Formal Complaint Procedure***

### **Step 2 – Preliminary Review, Investigation or Inquiry by the Integrity Commissioner**

#### **Complaint under the Code of Conduct**

1. Any individual who identifies or witnesses behaviour or an activity by a Member that they believe is in contravention of this Code of Conduct may file a formal complaint with the Integrity Commissioner for the Municipality by submitting in writing the prescribed complaint form to the Clerk accompanied by the prescribed fee.
2. Every complaint must be accompanied by the prescribed fee in the amount of \$150.00.
3. In the event that the Integrity Commissioner determines that a complaint is frivolous, vexatious or contains insufficient grounds to support an investigation under the Code of Conduct, the complainant shall forfeit the fee. If the Integrity Commissioner finds that there are sufficient grounds to support an investigation under the Code of Conduct, 50% of the fee shall be refunded, based on the decision of the Integrity Commissioner.
4. Every complaint shall include the following:
  - a) Information that sets out the reasonable and probable grounds for the allegation that the Member has contravened this Code of Conduct and shall reference the specific section(s) of the Code of Conduct alleged to have been contravened;
  - b) The date(s) that the complainant became aware of the facts;
  - c) Names of any witnesses in support of the allegation must be identified in the complaint;
  - d) An attestation from the complainant that they believe the facts as set out in the complaint are true to the best of their knowledge and belief and that they make those statements as if they were under oath.

The Integrity Commissioner may request additional information from the complainant.

5. The Clerk shall forward the complaint to the Integrity Commissioner. The Clerk shall also provide notice to Council by way of confidential internal communication that a complaint has been filed, but no details of the complaint shall be provided other than the fact that a complaint was received under the Code of Conduct.
6. If the complaint is not, on its face, a complaint with respect to non-compliance with

this Code of Conduct or the complaint is covered by other legislation or complaint procedure under another policy, the Integrity Commissioner shall refer the complaint or the complainant to the appropriate entity for investigation, advise the complainant in writing, suspend the investigation until after the matter has been finally disposed of (if deemed necessary), and report the suspension of the investigation to Council.

7. If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation and, where this becomes apparent in the course of an investigation, shall terminate the investigation. The Integrity Commissioner shall communicate this position in writing to the complainant and the Member identified in the complaint.
8. The Integrity Commissioner will conduct a preliminary review of the complaint. As part of the preliminary review of the complaint, the Integrity Commissioner will:
  - a) provide the complaint and supporting material to the Member who is the subject of the complaint. A request will be included that the Member provide any written response to the Integrity Commissioner within 10 days;
  - b) provide a copy of any response from the Member to the complainant within 10 days. A request will be included that the complainant provide any written response to the Member's response within 10 days;
  - c) Provide a copy of any response from the complainant to the Member within 10 days. A request will be included that the Member provide any written response to the complainant's response within 10 days;
  - d) Take any other steps that the Integrity Commissioner deems necessary to complete the preliminary review;
  - e) The Integrity Commissioner may extend deadlines at his or her discretion.
9. At any time during the process, if the Integrity Commissioner believes that an opportunity to resolve the matter is appropriate; efforts may be pursued to achieve a resolution at his or her discretion.
10. If following the preliminary review the Integrity Commissioner deems it necessary, he or she may conduct an investigation. During the investigation:
  - a) The Integrity Commissioner may speak to anyone, access and examine any documents or electronic materials and may enter any work location of the Municipality relevant to the complaint for the purpose of investigation or potential resolution;
  - b) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation;
  - c) The Integrity Commissioner shall retain all records related to the complaint

- and investigation; and
- d) The Integrity Commissioner may extend deadlines set through the investigation process at his or her discretion.

11. The Integrity Commissioner has all the powers set out in the *Municipal Act* and the *Public Inquiries Act* when undertaking an investigation.

**Application for Inquiry under the Municipal Conflict of Interest Act (“MCIA”)**

12. An elector as defined in section 1 of the MCIA, or a person demonstrably acting in the public interest, may submit an application to the Integrity Commissioner to conduct an inquiry concerning an alleged contravention of section 5, 5.1 or 5.2 of the MCIA by filing with the Clerk a completed and signed prescribed application form and paying the prescribed fee of \$150.00.
13. The Clerk shall forward applications to the Integrity Commissioner. The Clerk shall also provide notice to Council by way of confidential internal communication that an application has been submitted, but no details of the application shall be provided other than the fact that an application for an inquiry was received under the MCIA.
14. No application may be submitted more than six (6) weeks after the applicant became aware of the alleged contravention. An application shall include a statutory declaration attesting to the fact that the applicant became aware of the contravention not more than six weeks before the date of the application. The Integrity Commissioner may require further information from the applicant to determine if the six-week timeline has been satisfied.
15. Every application shall include the following:
- a) The statutory declaration set out in paragraph 14;
  - b) Information that sets out the reasonable and probable grounds for the allegation that the Member has contravened the MCIA and shall reference the specific section(s) of the MCIA alleged to have been contravened;
  - c) The date(s) that the applicant became aware of the facts;
  - d) Names of any witnesses in support of the allegation(s) must be identified in the applications;
  - e) An attestation from the applicant that they believe that the facts as set out in the complaint are true to the best of their knowledge and belief and that they make those statements as if they were under oath.

The Integrity Commissioner may request additional information from the applicant.

16. In the event that the Integrity Commissioner determines that an application is frivolous, vexatious or contains insufficient grounds to support an inquiry under the

MCIA, the Integrity Commissioner will not conduct an inquiry and the applicant shall forfeit the fee. The Integrity Commissioner shall communicate this position in writing to the applicant and the Member identified in the application. If the Integrity Commissioner finds that there are sufficient grounds to support an inquiry under the MCIA, 50% of the fee shall be refunded, based on the decision of the Integrity Commissioner.

17. The Integrity Commissioner will conduct a preliminary review of the application. As part of the preliminary review of the complaint, the Integrity Commissioner will:
  - a) Provide a copy of the complaint and supporting material to the Member who is the subject of the complaint. A request will be included that the Member provide any written response to the Integrity Commissioner within 10 days;
  - b) provide a copy of any response from the Member to the complainant within 10 days. A request will be included that the complainant provide any written response to the Member's response within 10 days;
  - c) Provide a copy of any response from the complainant to the Member within 10 days. A request will be included that the Member provide any written response to the complainant's response within 10 days;
  - d) Take any other steps that the Integrity Commissioner deems necessary to complete the preliminary review;
  - e) The Integrity Commissioner may extend deadlines at his or her discretion.
18. Following the completion of the preliminary review, the Integrity Commissioner will conduct an inquiry as he or she deems necessary.
19. The Integrity Commissioner has all the powers set out in the *Municipal Act* and the *Public Inquiries Act* when undertaking an inquiry.

#### **Reports and Recommendations of the Integrity Commissioner (Code of Conduct and MCIA)**

20. The Integrity Commissioner shall report to Council generally no later than 90 days after the official receipt of the complaint (180 days in the case of a complaint under the MCIA). If the investigation/inquiry process takes more than 90 (180) days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available.
21. Reports for completed investigations or inquiries shall be submitted to Council prior to Nomination Day in the year of a municipal election.
22. The Integrity Commissioner may, after completing an inquiry under the MCIA, apply to a judge in accordance with the MCIA for a determination under the Act as to whether or not the Member has contravened section 5, 5.1 or 5.2 of the MCIA.

- a) Prior to making an application to a judge, the Integrity Commissioner shall present to Council a proposal to make the application and allow Council to provide recommendations to the Integrity Commissioner as to whether such an application should be made;
  - b) The Integrity Commissioner is not bound by the advice or recommendation of Council and shall refer the matter to a judge in his or her sole discretion;
  - c) The Integrity Commissioner shall advise the applicant if he or she will not be making an application to a judge in accordance with this section;
  - d) After deciding whether or not to apply to a judge, the Integrity Commissioner shall publish written reasons for the decision.
23. If the Integrity Commissioner does not commence an investigation or inquiry following the preliminary review of a Code of Conduct complaint or an application under the MCIA, no report will be generated unless the Integrity Commissioner deems it be in the public interest to do so.
24. After completing an investigation under the Code of Conduct, the Integrity Commissioner shall prepare a report which will:
  - a) make findings of fact and conclusions as to whether a breach of this Code of Conduct occurred;
  - b) make recommendations to Council; and
  - c) include written reasons for the decision.
25. After completing an inquiry under the MCIA, the Integrity Commissioner shall prepare a report to Council which will:
  - a) state whether or not the Integrity Commissioner has reasonable grounds to believe that the Member has breached the MCIA; and
  - b) state whether or not the Integrity Commissioner will be making an application to a judge for a determination in accordance with paragraph 22.
26. A final report from the Integrity Commissioner shall be published by the Municipality by posting the report on the Municipal website and making a copy available to all Members of Council and the Members of the Board or Committee, as applicable.
27. If the Integrity Commissioner determines that there has been no contravention of this Code of Conduct or the MCIA, or makes a finding of blameworthiness, the Integrity Commissioner may so state in the report and may make appropriate recommendations.
28. Where a Member has sought and followed advice from the Integrity Commissioner and is subsequently the subject of a complaint or application, the Integrity

Commissioner may refer to the earlier advice and, provided that the facts as set out in the earlier advice are applicable, determine in a summary manner that there has been no breach of this Code of Conduct or the MCI A.

### **Confidentiality/Records**

29. The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation or inquiry, except as required by law and as required by this complaint protocol.
30. The Integrity Commissioner shall retain all records related to complaints and applications, and any related investigations or inquiries.
31. At the time of the Integrity Commissioner's report to Council, the identity of the person who is the subject of the complaint shall not be treated as Confidential Information if the Integrity Commissioner finds that it is necessary to disclose that person's identity.