



Policy Manual

Section:	Office of the Chief Administrative Officer
Subject:	Code of Conduct for Members of Council and Local Boards/Committees
Policy Number:	
Approval Date:	February 19, 2019
Approved By:	
Prepared By:	Office of the Chief Administrative Officer: Legal and Legislative Services

1.00 Objective

Members of Council and Local Boards/Committees for the Town of Essex (“Town”) have been entrusted to serve the public interest in a professional, responsible, transparent and accountable manner.

The Code of Conduct for Members of Council and Local Boards/Committees (hereinfter the “Code of Conduct”) outlines the principles of good conduct and ethics that Members are expected to demonstrate in the performance of their duties as elected or appointed officials. The Code of Conduct supplements statutes, legislation and policies that also govern Council and Local Board/Committee conduct including, but not limited to:

- Municipal Act, 2001;
- Municipal Conflict of Interest Act;
- Municipal Freedom of Information and Protection of Privacy Act;
- Municipal Elections Act, 1996;

- Criminal Code of Canada;
- Ontario Human Rights Code;
- Occupational Health and Safety Act; and
- Town of Essex Policies and By-Laws.

2.0 Application and Purpose

This Code shall apply to every Member. For further certainty this Code shall apply to Members who are members of a Local Board/Committee but who are not Members of Council with necessary modifications applied at the discretion of the Integrity Commissioner.

The purpose of this Policy is to establish standards of conduct that ensures Members carry out their duties in a manner that reflects the following six key principles:

2.01 Integrity

Members will uphold the highest standard of ethical behaviour including:

- a) Making impartial decisions that benefit the municipality and are fair and equitable to all residents;
- b) Upholding both the letter and the spirit of Federal and Provincial laws and the laws and policies adopted by the Town; and
- c) Being free from undue influence and not acting for personal gain or the gain of a Member's family, friends or business interests.

2.02 Accountability

Members are responsible for their decisions, including the act of not making a decision when a decision is expected or the act of making a decision that results in harm. Decision-making processes must be transparent and subject to public scrutiny.

2.03 Responsibility

Members will act responsibly, within the law and within the Town's policies and procedures. This includes:

- a) Disclosing actual or potential conflicts of interest related to a Member's public and/or appointed duties;
- b) Taking steps to resolve a conflict for the protection of the public interest;
- c) Following the letter and spirit of policies and procedures; and
- d) Exercising all conferred powers strictly for the purpose for which the powers have been conferred.

2.04 Leadership

Members will demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. A Member's behaviour must build and inspire the public's trust and confidence in local government.

2.05 Respect

Members will conduct themselves efficiently, with decorum and with proper attention to the Town's Procedural By-Law. They will treat each other and others with respect at all times, which includes not using derogatory language, respecting the rights of other people, treating people with courtesy, and recognizing the different roles others play in local government decision-making.

Members will ensure that the workplace is free of discrimination, personal harassment and sexual harassment in accordance with the Town's Respectful Workplace Policy, as amended from time to time.

2.06 Openness

Members have a duty to be as open as possible about their decisions and actions. This means communicating appropriate information openly to the public about decision-making processes and issues being considered, encouraging appropriate public participation, communicating clearly and providing an appropriate means for recourse and feedback.

3.0 Scope

This policy applies to all Members of the Town of Essex in their capacity as members of Council and/or members on committees and local boards of the Town.

4.0 Definitions

In this policy:

“Applicant” means a person who has applied for an investigation by the Integrity Commissioner of an alleged contravention of the *Municipal Conflict of Interest Act*;

“Application” means a written request for an investigation with respect to an alleged contravention of the *Municipal Conflict of Interest Act*;

“Child” means a child born within or outside marriage and includes an adopted child and a person who a parent has demonstrated a settled intention to treat as a child of his or her family;

“Clerk” means the Clerk of the Town of Essex;

“Closed Meeting” means a meeting that is closed to the public in order that Council or a committee can consider confidential information as permitted by the Municipal Act, 2001 and the Town’s By-Law that provides for the rules of order and procedure for municipal Council and its committees;

“Complainant” for purposes of this Code of Conduct, means the individual(s) who has made an informal or formal complaint that a Member has contravened the Code of Conduct for Members;

“Confidential Information” includes:

- a) Information in the possession of, or received in confidence by the Town that the Town is prohibited from disclosing, or has decided to refuse to disclose under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), or any other law;
- b) Information of a corporate, commercial, scientific or technical nature received in confidence from third parties, personal information, information that is subject to solicitor-client privilege, information that concerns any confidential matters pertaining to personnel, labour relations, litigation, property acquisition, the security of property of the municipality or a local board, and any other information lawfully determined by the Council or the local board to be confidential, or required to remain or be kept confidential by legislation or order;
- c) A matter, the substance of a matter, and information pertaining to a matter that has been debated or discussed at a meeting closed to the public, unless the matter is subsequently discussed in open Council or it is authorized to be released by Council or the local board or otherwise by law;
- d) Reports of consultants, draft documents and internal communications which, if disclosed may prejudice the reputation of the Town, its officers and employees or its effective operation;
- e) Information concerning litigation, negotiation or personnel matters;
- f) Information, which if published may infringe on the rights of any person e.g. source of a complaint where the identity of a complainant is given in confidence;

- g) Such other Information as may be considered and/or disclosed in a closed meeting of Council or its Local Board or Committee, properly held pursuant to Section 239 (2) and (3.1) of the Municipal Act, S.O. 2001,c.25, as amended (the "Municipal Act").

"Elected Official(s)" refers to those individuals who have been elected to Council and are currently sitting as a member of the Council of the Town;

"Interests" for purposes of this policy, may take two forms, namely:

- a) **"Pecuniary (Financial) Interest"** for purposes of this policy means an interest that a Member has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the Member or another person with whom the Conflict is associated.
- b) **"Non-Pecuniary (Non-Financial) Interest"** means private or personal interests or advantages that commonly arise out of a family or personal relationship, or involvement in sporting, social or other cultural groups and associations.

For purposes of this policy, the pecuniary or non-pecuniary interest of a parent, spouse, child, or friend of the Member shall, if known to the Member, be deemed to be also the pecuniary interest of the Member;

"Local Board(s) or Committee (s) or Local Board(s)/Committee(s)" as referred to herein shall include 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;

"Member" means those individuals who have been elected as a member of Council for the Town of Essex or appointed (by Council) as a member of a local Board/Committee of the Town of Essex;

“Parent” means a person who has demonstrated an intention to treat a child as a member of her or her family, whether or not that person is the natural parent of the child;

“Spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage and includes same-sex partners;

“Staff” for purposes of this policy, shall mean all employees of the Town, including temporary and contract employees, firefighters, appointees to agencies, boards and committees, volunteers and any individual retained by the Town to act on the Town’s behalf; and

“Workplace”, for purposes of this policy, includes any location in which work is carried out on behalf of the Town of Essex and is also applicable to any methods used to conduct work-related activities on behalf of the Town, including but not limited to:

- a) All work locations owned, rented or leased by the Town of Essex, including buildings , roads, etc.;
- b) Transportation used to conduct business on behalf of the Town of Essex, including vehicles, equipment, airlines, trains, buses, etc., regardless of whether they are owned, rented or leased by the Town of Essex;
- c) Restaurants, hotels or meeting facilities (for example, County Council Chambers) used for business-related purposes;
- d) Communication devices used to conduct Town of Essex business including telephones, cell phones, smart phones, email or any other method of communication; and
- e) Work-related social events regardless of whether the event is sponsored by the municipality.

5.0 Conflict of Interest

Public confidence in the Town of Essex is at risk when the conduct of a Member involves, or appears to involve, a conflict of loyalties, usually stated as a conflict between public duty and private interests.

To ensure that the public duty and trust is served, Members are required to:

- a) Consider the general wellbeing of the community when making decisions, without improper advantage to any person or group;
- b) Minimize the potential for conflict between personal interests, whether pecuniary or non-pecuniary, and the requirements of public duty; and
- c) Resolve a conflict, including an apparent conflict, between public duty and private interests as quickly as possible and in favour of the public interest.

6.0 Gifts and Benefits

Members shall not accept a fee, advance, gift or personal benefit, advantage or service that is connected directly or indirectly with the performance of their duties of office, unless permitted by the exceptions listed below.

For purposes of this policy, a fee or advance paid to or a gift, benefit, advantage or service provided with the member's knowledge to a member's spouse, child, or parent is deemed to be a gift to that member.

The following are recognized as exceptions:

- c) Compensation authorized by law;
- d) A political contribution otherwise reported by law, in the case of members running for office in a municipal election;
- e) Services provided without compensation by persons volunteering their time;
- f) A suitable memento of a function honouring the member;

- g) Food, lodging, transportation and entertainment provided by federal, provincial, regional and local governments or political subdivisions of such, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;
- h) Food and beverages consumed at banquets, receptions or similar events, if:
 - i) Attendance serves a legitimate business purpose;
 - ii) The person extending the invitation or a representative of the organization is in attendance; and
- i) The value is reasonable and the invitations infrequent;
- j) Communication to the home or offices of a member, including subscriptions to newspapers and periodicals; and
- k) Other items that are minor in nature, including:
 - i) Small holiday gifts of appreciation, such as cards, cookies or chocolates; or
 - ii) Advertising materials such as calendars, magnets, scratch pads, pens, t-shirts or baseball caps.

With the exception of category c), the exceptions do not apply where such gifts or benefits are provided by an individual lobbying a Member with respect to the:

- a) Development, introduction, passage, defeat, amendment or repeal of a by-law or resolution on any matter;
- b) Procurement of goods or services and awarding of a contract by the Town;
- c) Development, approval, amendment or termination of a policy;
- d) Approval, approval with conditions or denial of an application for a service, grant, planning application, permit or other license or permission;
- e) Award of a financial contribution, grant or other financial benefit by or on behalf of the Town, its committees or local boards; or

- f) Determination of the method for delivering a service.

In the case of the exceptions noted above, but excluding a), b), and e), no member shall accept a gift or benefit worth in excess of \$300 or gifts or benefits from one source during a calendar year worth in excess of \$300.

7.0 Confidential Information

A Member shall not disclose, release, or publish by any means to any person or to the public any Confidential Information, as defined in Section 4.00, "Definitions", acquired by virtue of his or her office, in any form, except when required or authorized to do so. Members shall not use Confidential Information for personal or private gain, or for the gain or benefit of any other person or body.

Matters discussed in a closed meeting shall remain confidential. No Member shall disclose the content of any such meeting, or the substance of deliberations of a closed meeting until the Council or local Board/committee discusses the information at a meeting that is open to the public or releases the information to the public.

Requests for information should always be referred to the appropriate staff to be addressed as either an informal request for access to municipal records, or as a formal request under MFIPPA.

8.0 Use of Town Property, Services and Other Resources

Members will not use, or permit the use of owned or leased Town land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Town.

Members shall not realize personal financial gain from the use or sale of intellectual property developed or owned by the Town (for example, creative writings and drawings, Town of Essex logo), technical innovations or other items capable of being patented.

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

for any election campaign or campaign-related activities. Members shall not undertake campaign-related activities on Town property and shall not use the services of persons for election-related purposes during hours in which those persons receive any compensation from the Town.

9.0 Conduct of Members

9.01 Conduct at Meetings

At all meetings of Council, its committees and local boards, Members will conduct themselves with decorum in accordance with all applicable statutes and the Town's By-Law that provides for the rules of order and procedure for municipal Council and its committees.

During Council meetings, Members will address the Mayor as "Mayor (*insert surname*)" or "Your Worship", the Deputy Mayor as "Deputy Mayor (*insert surname*)" Members as "Councillor (*insert surname*)" and staff of the Town of Essex as "Mr. or Ms. (*insert surname*), (*insert position title*)"

Members shall recognize the importance of co-operation and will strive to create an atmosphere that is conducive to solving the issues before Council, its committees and local boards. During meetings Council will listen to various points of view and use respectful language and behaviour to those in attendance at such meetings. Members will not distract from the business of the Town during presentations and when other Members, staff and members of the public have the floor.

During Council Meetings No Member shall maliciously or falsely injure another Member, member of the public or member of staff during a meeting of Council, its committees and local boards.

9.02 Conduct Respecting Staff of the Town of Essex

Members are not permitted to individually direct the actions of staff, except as authorized by Council and with direction provided through the Chief Administrative Officer. Members will be respectful of the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective in a politically neutral and objective manner, without undue influence from any individual member or faction of Council or its local Boards or Committees. No Member shall maliciously or falsely injure the professional or ethical reputation of staff and will show respect for the professional capacities of staff.

Members of Council and its Local Boards and Committees shall not compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Members shall not use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

9.03 Discreditable Conduct

All Members have a duty to treat members of the public, one another, committee and board members and staff appropriately and without abuse, bullying or intimidation, and to ensure that the work environment is free from discrimination and harassment.

A Member shall not use indecent, abusive or insulting words or expressions toward any other Member, an employee or any member of the public and 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.

10.0 Obligation to be Informed

In order to efficiently and effectively advance the business of the Town and its committees, Members shall make every effort to read all written material provided to them by way of agenda in advance of a meeting and direct any questions regarding an agenda item to the

Clerk, Chief Administrative Officer or the staff member responsible for submitting the information provided in the agenda.

11.0 Safeguarding Equipment and Information

During each term of office, Members will be provided with a computer, smart phone and any other equipment deemed necessary to assist them in performing their duties as elected officials. All equipment provided, including licensed software programs and electronically created files and emails are considered the property of the Town.

Members shall take all necessary precautions to protect this equipment, software and information from loss or damage and unauthorized use or access by persons other than themselves. Where appropriate, a user name and password is provided to protect the equipment from unauthorized use. Members shall not share their user account information or passwords with any other person, including family members, friends, business associates and the general public.

Members shall not utilize the Town's equipment for an inappropriate use, including:

- a) Running applications, security programs or utilities that reveal weaknesses in security;
- b) Installing third-party screen savers or changing corporately approved desktop backgrounds or wallpaper;
- c) Downloading or storing MP3 files, MP4 files or Torrents;
- d) Accessing, sending, uploading, downloading or saving inappropriate material which includes, but is not limited to:
 - i) Pornographic , violent or hate material;
 - ii) Information which is derogatory to any individual or group, or which is defamatory or threatening in nature;
 - iii) Information which misrepresents the views, policies, procedures and principles of the Town of Essex;

- iv) Accessing, displaying or storing fraudulent, harassing or obscene email messages, or email messages, graphics or images which are offensive and conducive to a poisoned work environment; or
- v) Information which is disseminated for a purpose which is illegal, or for a purpose which compromises the Town of Essex or which is not in the interest of the Town.

12.0 Corporate Emails and Correspondence

Corporate emails and other types of correspondence provided to Members are the property of the Town. Emails and correspondence received by Members are intended only for the use of Council and its Local Boards/Committees. Any disclosure, dissemination, reproduction or other use of any part of these communications is strictly prohibited

Requests or correspondence or emails provided to Council and its Local Boards/Committees by an individual other than a Member should be referred to the Clerk.

13.0 Smart Phone Usage in Meetings

During meetings of Council, committees and local boards, Members shall turn their smart phones to vibrate. Use of smart phones during meetings shall be restricted to answering emergency calls only. In the case of an emergency call, Members shall excuse themselves from the meeting and take the call in another room or area.

14.0 Environmental Responsibility

The Town is committed to acting responsibly in all of its activities by:

- Protecting and conserving the environment;
- Safeguarding the interests of its residents against unacceptable levels of environmental risk; and
- Supporting the principles of sustainable development.

Members are responsible for taking reasonable care to ensure that the Town's business activities are conducted in an environmentally prudent way.

15.0 Complaint Protocol

The complaint protocol shall not retroactively apply to any alleged transgressions occurring prior to the date on which the Code of Conduct was formally adopted by Council.

16.0 Integrity Commissioner

In accordance with Section 223 of the *Municipal Act*, 2001, S.O. 2001, c.25, the Town of Essex shall appoint an Integrity Commissioner who reports to Council and is responsible for performing, in an independent manner, the following duties:

- a) The application of the code of conduct for members of council and the code of conduct for members of local Boards/committees or of either of them.
- b) The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards/committees or of either of them.
- c) The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council or of local boards/Committees.
- d) Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the Member. All requests for such advice and the advice in response thereto, shall be provided in writing.
- e) Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of Members. All requests for such advice and the advice in response thereto, shall be provided in writing.
- f) Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act. All requests for such advice and the advice in response thereto, shall be provided in writing.

- g) The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's code of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.
- h) The Integrity Commissioner will determine whether a Member has in fact violated a protocol, by-law or policy governing their behaviour, with the final decision making authority resting with Council as to whether the recommendations of the Integrity Commissioner are imposed; and
- i) Annual Reporting

The Integrity Commissioner will provide Council with an annual report on findings of any complaint cases in accordance with Section 223 of the *Municipal Act, 2001, S.O. 2001, c.25*.

17.0 Informal Complaint Procedure

Individuals or organizations, who have identified or witnessed behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct may address the prohibited behaviour or activity themselves in the following manner:

- a) Advise the Member that their behaviour or activity appears to contravene the Code of Conduct;
- b) Encourage the Member to cease the prohibited behaviour or activity;
- c) Keep a written record of the incidents, including dates, times, locations, other persons present and any other relevant information;
- d) If applicable, confirm to the Member that they are satisfied with the response they received, or alternatively, advise the Member of their dissatisfaction with the response;
- e) Consider the need to pursue the matter in accordance with the Formal Complaint Procedure (Section 17).

While individuals or organizations may pursue this Informal Complaint Procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct, a person is not required to undertake the Informal Complaint Procedure prior to pursuing the Formal Complaint Procedure.

18.0 Formal Complaint Procedure

All the provisions of this Section apply to a request for an inquiry by an individual, an organization, a local board or Council as a whole. A Complaint that a Member has contravened the Code or a corporate policy of the Town may be initiated by any person, any Member of Council, or by Council as follows:

18.01 Complaint

- a) A request for an investigation of a complaint that a Member has contravened the Code of Conduct or corporate policy of the Town shall be in writing using the Formal Complaint and Affidavit form attached hereto as Appendix A;
- b) A complaint shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
- c) A complaint must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);
- d) A complaint shall include:
 - i. an explanation, with specific reference to sections of the Code, as to why the issue raised is alleged to be a contravention of the Code;
 - ii. any evidence in support of the allegation;and
 - iii. any witnesses in support of the allegation must be identified.

- e) The alleged violation shall have taken place within sixty (60) days of filing the complaint with the Integrity Commissioner;

18.02 APPLICATION

- i. If filed with the Integrity Commissioner on or after March 1, 2019, an application to the Integrity Commissioner to inquire into an alleged contravention of Sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act ("MCIA") may be made by an elector as defined in Section 1 of the MCIA or by a person demonstrably acting in the public interest, as follows:
 - b) an application shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
 - c) an application must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);
 - d) an application shall include:
 - 1. an explanation, with specific reference to sections of the MCIA, as to why the issue raised is alleged to be a contravention of the Act;
 - 2. any evidence in support of the allegation; and
 - 3. any witnesses in support of the allegation must be identified; and
 - 4. a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention not more than six weeks before the date of application in accordance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

- e) an application may only be made six weeks after the applicant became aware of the alleged contravention and otherwise in compliance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

18.03 Review of Complaint by Integrity Commissioner

The Integrity Commissioner will review the formal complaint for purposes of determining if the complaint is related to non-compliance with the Code of Conduct or MCIAC or whether the complaint is related to other legislation or another policy applicable to the Members and within the jurisdiction of the Integrity Commissioner. The Integrity Commissioner shall have no power or jurisdiction to investigate or otherwise deal with the complaint or application, if it is not alleging such a contravention, or if the complaint relates to the following matters:

- a) If the complaint on its face is an allegation of a criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that, should they wish to pursue the complaint, they must do so with the police;
- b) If the complaint on its face is with respect to non-compliance with or enforcement of the Municipal Elections Act, the complainant shall be advised to review the matter with their own legal counsel;
- c) If the complaint on its face is with respect to non-compliance with MFIPPA, the complainant shall be advised that the matter will be referred to the person acting as Head of the municipality for purposes of MFIPPA;
- d) If the complaint on its face is with respect to non-compliance with a more specific corporate policy with a separate complaint procedure, the complainant shall be

advised that the matter will be processed under the procedure provided for in that policy;

- e) In all other cases, the complainant shall be advised that the matter is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner deems appropriate.

The Integrity Commissioner may dispose of a complaint or application on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may do so confidentially or report same to Council.

The Integrity Commissioner may also seek further information or clarification from the complainant/applicant and shall endeavour to apprise the complainant/applicant of subsequent steps and the processing of the complaint or application and any ensuing investigation.

18.04 Refusal to Conduct Investigation

The Integrity Commission shall not conduct an investigation of a complaint or may terminate an investigation where, in the opinion of the Integrity Commissioner:

- a) The complaint is frivolous, vexatious, without substance, or not made in good faith;
- b) There are no grounds or insufficient grounds for an investigation; or
- c) The complaint is not germane to the Code of Conduct.

The Integrity Commissioner shall advise the complainant/applicant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.

18.05 Investigation of Complaint

If the Integrity Commissioner determines that a complaint is related to a matter within his or her jurisdiction the Integrity Commissioner shall investigate and attempt to settle the complaint.

Under Section 223.4(2) of the Municipal Act, 2001, the Integrity Commissioner may elect to investigate a complaint by exercising the powers of a commission under Parts I and II of the Public Inquiries Act.

When the Public Inquiries Act applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this complaint protocol, but, if there is a conflict between a provision of the complaint protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.

The Integrity Commissioner will proceed to investigate the complaint in the following manner, except where otherwise required by the Public Inquiries Act:

- a) Serve the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation be filed with the Integrity Commissioner within ten (10) business days; and
- b) Serve the complainant with a copy of the member's written response with a request that the complainant provide a written response to the Integrity Commissioner within ten (10) business days.

After reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in Section 223.4 of the Municipal Act, 2001 and may enter any municipal or local board work location relevant to the complaint for the purposes of investigation.

The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member unless the Member has had ten (10) days' notice of the basis for the proposed finding and any recommended sanction and has had an opportunity to respond in writing within ten (10) business days to the Integrity Commissioner on his/her findings and recommended sanction.

18.06 Election Period

No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to Council respecting an investigation, within the election period between nomination day and six weeks after voting day, except as provided in s.223.4 and 223.4.1 of the *Municipal Act*.

18.07 Reporting on an Investigation

- a) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of delay, interference, obstruction or retaliation encountered during the investigation, or as otherwise deemed necessary by the Integrity Commissioner.
- b) The Integrity Commissioner shall report the general findings of his/her investigation to the complainant and the Member no later than 90 days after the making of the complaint and the report will indicate when the Integrity Commissioner anticipates presenting his/her recommended corrective action(s) for Council's consideration.
- c) Upon conclusion of an application investigation, the Integrity Commissioner may, if he/she considers it appropriate, apply to a Judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravened Section 5, 5.1 or 5.2 of the Act.
- d) The Commissioner shall:
 - (i.) advise the applicant if he or she will not be making an application to a judge; and
 - (ii.) after deciding whether or not to apply to a judge, provide a written report providing reasons for the decision.
- e) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council or the local board, or both, outlining the findings and recommended corrective action. If the complaint is dismissed or withdrawn, the Integrity Commissioner shall not report to Council or the local board except as part of an annual or other periodic report.

18.08 Recommendations of the Integrity Commissioner

Any recommendations for corrective action by the Integrity Commissioner must be permitted by law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.

In accordance with Section 223.4(5) of the Municipal Act, 2001 Council has the authority (where the Integrity Commissioner has determined there was a violation of the Code) to impose either of the following two penalties on a member of Council:

- a) A reprimand; or
- b) Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

The Integrity Commissioner may also recommend that Council and/or a local Board /Committee take the following actions:

- a) Removal from membership from an advisory committee or local board;
- b) Removal as Chair of a committee or local board;
- c) Request the repayment or reimbursement of monies received;
- d) \request the return of property or reimbursement of its value; and
- e) Request an apology to Council, the complainant or both.

18.09 Member not in Contravention

If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct, that a contravention occurred which a Member took reasonable measures to prevent, or that the contravention that occurred was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall so state in any report and shall recommend that no penalty shall be imposed.

18.10 Integrity Commissioner's Report to Council

The Clerk shall provide the Integrity Commissioner's report for the next meeting of Council or the local board.

18.11 Duty of Council or Local Board

Council or a local board shall consider and respond to the report within 90 days after the day the report is provided to Council or a local board.

18.12 Confidentiality

A complaint shall be processed in compliance with the confidentiality requirements in Section 223.5 of the Municipal Act, 2001, as follows:

- a) The Integrity Commissioner and every person acting under her/his instructions shall preserve secrecy with respect to all matters that come to his/her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Section 223.5(1) of the Municipal Act, 2001;
- b) Pursuant to Section 223.5(3) of the Municipal Act, 2001, this Section of the Act prevails over the Municipal Freedom of Information and Protection of Privacy Act;
- c) If the Integrity Commissioner reports to the municipality or to a local board his/her opinion about whether a member of Council, local board or committee has contravened the Code of Conduct, the Integrity Commissioner may disclose in the report such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report;
- d) The Town and each local board shall ensure that reports received from the Integrity Commissioner by the municipality or local boards are made available to the public upon the matter being reported out to the members of Council; and
- e) Neither the Integrity Commissioner nor any person acting under the instructions of the Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under Section 223 of the Municipal Act, 2001.

18.13 Referral to Appropriate Authorities

In accordance with Section 223.8 of the Municipal Act, 2001, if the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the Criminal Code of Canada, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and its disposition thereof, and shall report the suspension to Council through the Clerk.

19.0 Annual Report by the Integrity Commissioner

The Integrity Commissioner shall report to Council on complaints received and dealt with during a calendar year and may also report on complaints that were received but were not within the jurisdiction of the Integrity Commissioner. Should no complaints be received within a calendar year, the Integrity Commissioner will advise the Clerk that no annual report will be made by the Integrity Commissioner and the Clerk shall advise Council accordingly.

20.0 Reprisals and Obstruction

Members shall respect the integrity of the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities including, but not limited to, the destruction of documents, the erasing of electronic communications, etc.

21.0 Acknowledgement

I, _____, acknowledge that I have read and understand the Code of Conduct for Members and I agree to be bound by it.

Name: _____

Signature: _____

Date: _____

Appendix A

Formal Complaint and Affidavit

(Code of Conduct for Members of Council and Local Boards/Committees)

Please note that signing a false affidavit may expose you to prosecution under Sections 131 and 132 or 134 of the Criminal Code, R.S.C. 1985, c. C-46.

Affidavit of: _____
(full name)

of the _____ of _____ in
(Town/City, etc. of residence)

the County of _____, in the Province of Ontario, make oath and say:

1. I have personal knowledge of the facts as set out in this affidavit, because _____

(insert reasons i.e. I work for...; I attended the meeting at which...; etc.)

2. I have reasonable and probable grounds to believe that a member of Council or local board _____

(specify name of Member)

Has contravened Section(s): _____ of the Code of Conduct for Members, the particulars of which are summarized in 3 below.

3. Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space, please attach a separate piece of paper and check the appropriate box below. If you wish to include exhibits to support this complaint, please list the exhibits in the space provided below and attach them to this form.

This affidavit is made for the purpose of requesting that this matter be reviewed in accordance with the provisions of the Code of Conduct for Members.

Sworn before me at the)
)

(City, Town, etc.))
In the Province of Ontario on this)
_____) day of _____,)
_____))
_____))
_____))
(Signature of Commissioner))
A Commissioner for taking affidavits, etc.)

(Signature of Complainant)