

COUNCIL AND COMMITTEE CODE OF CONDUCT

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Policy Statement:

Municipalities are required by provincial legislation to have codes of ethical conduct in place for their members of council and local boards. This Council and Committee Code of Conduct (“**Code**”) establishes standards of conduct for Members of Council when carrying out their official duties. As well, these standards of conduct apply to individuals appointed by Council to the Town’s advisory and statutory committees or other groups.

Formalized standards help to provide a useful reference guide and a supplement to the legislative parameters within which the Members of Council must operate. Further, they enhance public confidence that the Town’s elected representatives operate from a base of integrity, justice, and courtesy. Members are therefore expected to perform their duties of office in a manner that will bear the closest scrutiny.

The Code is to be given a broad and liberal interpretation in accordance with applicable legislation and the definitions set out herein. Members of Council and Local Boards are encouraged, to work to attempt an informal resolution of their differences before considering lodging a formal complaint. Members of East Gwillimbury’s citizen advisory committees who are not elected officials are bound by the Code of Conduct.

Nothing in this Code prevents individual Members of Council or Local Boards from using municipal services in their personal capacity and accessing municipal property in the same as anyone in the public, as long as Municipal Conflict of Interest Act (“MCIA”) rules are followed.

Definitions:

- (a) **Advice** means advice provided in writing by the Integrity Commissioner in response to a request in writing from a Member, respecting:
- (i) the Member’s obligations under the Code;
 - (ii) the Member’s obligations under a procedure, rule or policy of the Town or a Committee, as the case may be;
 - (iii) the Member’s obligations under the Municipal Conflict of Interest Act.

- (b) **Child, Parent and Spouse** have the same meanings as in the Municipal Conflict of Interest Act.
- (c) **Clerk** means the Municipal Clerk for the Town of East Gwillimbury.
- (d) **Committee** means any Local Board, advisory or other committee, subcommittee or similar entity, as established from time to time by Council.
- (e) **Complaint** means a request by Council, a Committee, a Member, or a member of the public directed to the Integrity Commissioner to investigate and/or conduct an Inquiry into an alleged contravention of the Code or of the Municipal Conflict of Interest Act, or a provision of any procedure, rule or policy of the Town or Committee, as the case may be.
- (f) **Council** means the Municipal Council for the Town of East Gwillimbury.
- (g) **Duties** means, in relation to a Member, those activities that are reasonably related to a Member's office, taking into consideration the different interests and diverse profiles of their wards, and their different roles on committees, agencies, boards and commissions.
- (h) **Family Member** means:
- Spouse, common-law partner, or any person with whom the person is living as a Spouse outside of marriage
 - Parent, including stepparent and legal guardian
 - Child, including stepchild and grandchild
 - Siblings and children of siblings
 - Aunt/uncle, niece/nephew, first cousins
 - In-laws, including mother/father, sister/brother, daughter/son
 - Any person who lives with the Member on a permanent basis
- (i) **Inquiry** means an inquiry commenced by the Integrity Commissioner, pursuant to and in accordance with (a) the provisions of Part V.1 of the Municipal Act, 2001 as more particularly described in Section 223.4 of the Municipal Act, 2001; or (b) the provisions of the Public Inquiries Act, 2009; or (c) the provisions of Section 5, 5.1, 5.2 or 5.3 of the Municipal Conflict of Interest Act.

- (j) **Local Board** means a “local board” of the Town as defined in Section 223.1 of the Municipal Act, 2001 and for clarity, excludes The Town of East Gwillimbury Public Library Board.
- (k) **Member** means a member of Council, Committee or Local Board.
- (l) **Municipal Act, 2001** means the Municipal Act, 2001, S.O. 2001, c.25, as same may be amended or replaced.
- (m) **Municipal Conflict of Interest Act** means the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, as same may be amended or replaced.
- (n) **Municipal Elections Act, 1996** means the Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched., as same may be amended or replaced.
- (o) **Municipal Freedom of Information and Protection of Privacy Act** means the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56., as same may be amended or replaced.
- (p) **Pecuniary Interest** means a direct, indirect or deemed interest within the meaning of the Municipal Conflict of Interest Act.
- (q) **Public Inquiries Act, 2009** means the Public Inquiries Act, 2009, S.O. 2009, c. 33, Sched. 6, as same may be amended or replaced.
- (r) **Region** means The Regional Municipality of York, as a municipal corporation.
- (s) **Regional Council** means the Council for The Regional Municipality of York.
- (t) **Staff** includes all non-union and union staff of the Town whether full-time, part- time, contract, seasonal or volunteers.
- (u) **Town** means The Corporation of the Town of East Gwillimbury.

Application (who this policy applies to):

The Code applies to all Members when carrying out their Duties. Individuals who are appointed by Council to the Town’s advisory and statutory committees or other groups and who are not elected officials are also bound by the applicable provisions of this Code when

they carry out their responsibilities under their respective Committee or group's mandate. The Code does not apply to members of The Town of East Gwillimbury Public Library Board.

Members are not carrying out their Duties for the purposes of the application of the Code in the following situations:

- (a) While executing duties as a member of Regional Council.
- (b) In relation to business that is before Regional Council and/or within the purview of Regional Council.
- (c) When only representing Regional Council.

Should an issue arise where it may be unclear whether a Complaint falls within the mandate of the Town or the Region, both the Town's and the Region's Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). In such instances, consideration should be given to the following:

- (a) The municipality in which the Complaint was filed.
- (b) The municipality in which the expense/mileage claim was submitted for the event or function.
- (c) The reasonableness for that municipality's Integrity Commissioner to undertake the investigation.

Description:

1.0 Statement of Principles

1.1 The following principles will guide Members in their actions and assist the Integrity Commissioner in interpreting the substantive provisions of the Code:

- Members shall serve the public in a conscientious and diligent manner that fosters and enhances respect for government and demonstrates respect for members of the public. Members shall speak truthfully and shall not act in a way that will deceive the public.
- Members shall always act and perform their functions with integrity, accountability and transparency, and shall avoid the improper use of influence of their office and

conflicts of interest, both apparent and real. The Code does not require Members to provide a response to a Complaint that the Integrity Commissioner determines is frivolous or vexatious, unreasonable, or harassing.

- Members shall perform their Duties and arrange their private affairs in a manner that promotes public confidence and will bear public scrutiny.
- Members shall avoid conflicts, both apparent and real, and the improper use of the influence of their office. In the discharge of their Duties, Members shall not extend preferential treatment to Family Members, organizations or groups in which they or their Family Member have a Pecuniary Interest, which Pecuniary Interest is known to the Member.
- Members shall not engage in the management of a business carried on by a corporation nor profit directly or indirectly from a business, including but not limited to a corporation, that does business or has contracted with the Town, or hold an office or directorship, unless holding the office or directorship is in a social club, religious organization, other charitable organization or corporations with shares directly or indirectly held by the Town.
- A Member may engage in an activity prohibited in the immediately preceding bullet if the following conditions are met:
 - The Member has disclosed all material facts to the Integrity Commissioner;
 - The Integrity Commissioner is satisfied that the activity, as carried on in the specified manner, does not create a conflict between the Member's private interest and public duty;
 - The Integrity Commissioner has given the Member their approval and has specified the way the Member may remedy the situation; and,
 - The Member remedies the situation in the manner specified by the Integrity Commissioner.
- Members shall refrain from making disparaging comments or unfounded and speculative accusations about the motives of another Member, of Staff or a member of the public.

Committees, Local Boards and Members of Committees/Local Boards.

- Members of the public appointed to Committees or Local Boards are appointed at the pleasure of Council. They do not hold office, they do not represent a constituency within the community, and they do not represent Council, or the

Committee or the Local Board unless mandated by Council to do so. Members of the public appointed to Committees and Local Boards must respect both the word and spirit of this Code as it applies to them and as it applies to Members of Council.

- Committees and Local Boards operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.
- No member of a Committee or Local Board may act beyond the mandate granted by Council of their Committee or Local Board. Members of the public appointed by Council to Committees and Local Boards should adhere to the terms of reference setting out the mandate of such Committee or Local Board, as same may be amended from time to time by Council. For greater clarity, they must not undertake site visits, direct discussions with residents, have informal meetings or issue communications including emails except:
 - (a) As granted the right to do so by Council;
 - (b) Pursuant to the Duties of a Member of Council; or
 - (c) Otherwise if required by law.

2.0 Conduct at Meetings

- 2.1** Members will conduct themselves at all Council, Committee, and/or any other Town related meetings with decorum and in accordance with the Town's Procedure By-law or other applicable procedural rules and policies.

3.0 Staff and Council Relations

- 3.1** Council approves budget, policy and governance of the Town through Council's by-laws and resolutions. Individual Members do not direct or oversee the functions of Staff in the administration of the business affairs of the Town.
- 3.2** Members shall respect the role of Staff in the administration of the business affairs of the Town. Members shall respect that:
- a) Staff provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of Staff, whether professionally or personally.
 - b) Under the direction of the Senior Management Team of the Town, Staff serves Council as a whole, and the combined interests of all Members as evidenced through Council decisions. Members must not make requests or statements or

take actions which may be construed as an attempt to influence the independent administration of Town business. Members shall not attempt to intimidate, threaten, or influence any Staff from carrying out that person's duties, including any duty to disclose improper activity.

- c) Staff carry out their duties based on political neutrality and without undue influence from any individual Member. Accordingly, Members must not invite or pressure Staff to engage in partisan political activities or subject Staff to discrimination or reprisal for refusing to engage in such activities.

4.0 Integrity Commissioner and Council/Committee Relations

4.1 The Integrity Commissioner ensures that all Members follow the Code, provides workshops and education sessions for Members, and oversees all Complaints made against a Member.

4.2 The duties of the Integrity Commissioner include but are not limited to the following:

- Determining whether the Code has been breached
- Giving verbal advice to Member(s)
- Providing Advice to Member(s)
- Investigating alleged breaches of the Code
- Providing Council and Town Staff with general advice on issues of ethics and integrity, including codes of conduct, policies, protocols, and office procedures, and emphasizing the importance of ethics in municipal government.

4.3 In the event that a Member is unsure if a past action or intended action constitutes a breach of the Code, that Member is encouraged to request advice regarding the matter with the Integrity Commissioner.

4.4 No Member shall obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner's duties.

4.5 No Member shall threaten or undertake any act of reprisal against a person initiating a Complaint under the Code or who provides information to the Integrity Commissioner in any Inquiry.

5.0 Use of Town Property

5.1 Council is the custodian of the Town's assets. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

5.2 Members must not use or permit the use of Town lands, facilities, equipment, supplies, services, Staff or other resources for activities other than the Town's business. No Member shall seek financial gain for themselves or a Family Member from the use or sale of the Town's property.

5.3 Members shall not obtain financial gain from the use of Town-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 Town.

5.4 Members shall not use information that is not available to the general public for any purposes other than their Duties.

6.0 Gifts and Benefits

6.1 Gifts to Members risk the appearance of improper influence. Gifts may induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Town. Except in accordance with the rules and restrictions set out in this Section 6.1, no Member shall accept a gift, fee, advantage, service, benefit or hospitality (collectively referred to in this Section 6.0 as "**gift**") connected directly or indirectly with the performance of the Member's Duties. A gift that is provided with the Member's knowledge to the Member's Spouse, Child or Parent, or to Staff, that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to that Member. A Member may accept a gift if they comply with the following rules and restrictions:

- i. Where the total value of the gift is less than or equal to \$100.00, the Member can accept the gift to an aggregate upset limit in a calendar year of \$500.00 per Member and is not subject to the rules and restrictions set forth in subparagraph ii herein.
- ii. Where the total value of the gift exceeds \$100.00, Members shall disclose on a periodic basis and at least quarterly to the Integrity Commissioner a list of these of gifts received and provide sufficient information regarding the nature of the gift, the amount of the gift, and the person or entity that provided the gift, and any other information the Integrity Commissioner requests, acting reasonably. In no event shall the Member receive a gift or gifts, exceeding \$100.00 where the aggregate in any calendar year would exceed an upset limit of \$500.00.

An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member's Duties (i.e., for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is the fulfillment of a Duty.

6.2 Notwithstanding Section 6.1, Members may accept a gift or benefits in the following circumstances:

- a) Compensation authorized under applicable law;
- b) Such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c) A political contribution in accordance with applicable law, in the case of Members running for office;
- d) Services provided without compensation by persons volunteering their time;
- e) A suitable memento from a function honouring the Member;
- f) Food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity; where the Member is either speaking or attending in an official capacity at an official event (for greater certainty, where Council has authorized or endorsed an initiative or event, this would be considered an official event);
- g) Participating in or consuming food and beverages at banquets, receptions, sporting events or similar functions, if:
 - Attendance serves a legitimate business purpose, or supports a charitable cause in the community, a board of trade or chamber of commerce; and,
 - The person extending the invitation or a representative of the organization is in attendance; and,
 - The value is nominal; and.
 - Invitations that are extended to all Members of Council.

Examples of gifts of nominal value would include a baseball cap, t-shirt, flash drive, book, etc.

Where the Integrity Commissioner has made the determination that any gift has

been accepted, is unlikely to give rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of the Member's duties.

- 6.2.1 Sponsorships and donations for community events or initiatives organized or run by a Member or a third party on behalf of a Member where Council has authorized or endorsed the event or initiative (for greater certainty, for Member-organized community events or initiatives, Members should be transparent in their dealings with the public and should not handle any funds on behalf of any organizations and should remain at arm's length.
- 6.3 The Code recognizes that as community leaders, Members may lend their support to and encourage community donations to registered charitable and not-for-profit groups. Funds raised through fundraising efforts shall go directly to the groups or volunteers and chapters acting as local organizers of the group. The Code recognizes the important work of Members in supporting charitable causes and the need for transparency in Members' involvement. In this context, the Code sets out the following guiding principles for Members:
- (a) Members should not directly or indirectly manage or control any monies received relating to charitable organization's fundraising.
 - (b) A Member or a third party acting on behalf of the Member shall neither solicit nor accept support in any form from an individual, group or corporation with any pending litigation or application before Council (including but not limited to bids on contract tenders or requests for proposals).
 - (c) With reference to Member-organized community events that are Town-wide in scope, Members must report to the Integrity Commissioner the names of all donors and the value of their donation.
 - (d) Where a Member sponsors and/or lends support to a charitable organization's event, the Code recognizes that all donations are subject to the applicable sections of the Code.
 - (e) Donation cheques shall not be made out to a Member.

Nothing in this Section 6.3 affects the entitlement of a Member to:

- i. use their individual Council Member budget to run or support community events;

- ii. urge constituents, businesses and other groups to support community events and advance the needs of a charitable organization put on by others in the Town;
- iii. play an advisory or membership role in any organization that holds community events in the Town;
- iv. collaborate with the Town and its agencies to hold community events.

Members shall be guided by the Council Member Expense Policy or Procedure, as developed from time to time.

7.0 Confidential Information

- 7.1** For the purposes of this Code, confidential information includes information in the possession of the Town that the Town is either prohibited from disclosing or must refuse to disclose under access and privacy legislation. Information addressed in Section 239(2) of the Municipal Act, 2001 and other legislation may be considered examples of same. Such information is typically communicated to Members via a staff report or memorandum that is clearly marked confidential and cites the appropriate confidential justification under the Municipal Act, 2001.
- 7.2** Members receive confidential information from a number of sources as part of their work. This includes, but is not limited to, information the Town receives in confidence that falls under the privacy provisions of the Municipal Freedom of Information and Protection of Privacy Act and other applicable privacy laws and information received during closed meetings of Council or Committee.
- 7.3** No Member shall disclose the content of any such confidential matter, or the substance of deliberations, of a closed meeting. The Member has a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members must not, either directly or indirectly, release, make public or in any way divulge any such confidential information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.
- 7.4** Members must not disclose, use or release information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Town that is relevant to matters before Council, a Local Board, or Committee.
- 7.5** When Members receive confidential information in the course of their Duties, they will abide by the following requirements and conditions:
- (a) Members shall not disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either

oral or written form, except when required by law or authorized by Council to do so.

- (b) Members shall not use confidential information for personal or private gain, or for the gain of family members or any person or corporation.
- (c) Members shall not directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of Town's property or assets.
- (d) Members shall not disclose the content of any such matter, or the substance of deliberations, of a meeting held in closed session until Council discusses the information at a meeting that is open to the public or releases the information to the public. For greater certainty, there is no "sunset date" after which time confidential information automatically becomes public. Historical confidential information remains confidential in perpetuity unless ordered released by direction of Council. Individual Members may not request that confidential information be released.
- (e) Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential.
- (f) Members shall not access or attempt to gain access to confidential information in the custody of the Town unless it is necessary for the performance of their duties and not prohibited by Council policy.
- (g) Members shall refer requests for confidential information to the Town Clerk to be addressed as either an informal request for access to municipal records or as a formal request under the Municipal Freedom of Information and Protection of Privacy Act.

When in doubt as to whether certain information is confidential, Members should confirm with the Clerk.

8.0 Business Relations

- 8.1** Members shall not borrow money from any person who does business with the Town unless such person is an institution or company whose shares are publicly traded and who is in the business of lending money (e.g., a bank or financial institution).
- 8.2** Members shall not act as paid agents before Council, its Committees or Local Boards or other entities affiliated with the Town.
- 8.3** Members shall not refer any third party to a person, partnership, or corporation in

exchange for payment or other personal benefit.

8.4 Members shall not allow the prospect of their future employment by a person or entity to affect the performance of their Duties.

8.5 If a Member becomes aware that an entity for which the Member has a material interest (or is a director or employee), may offer or provide goods, consulting or other services to the Town, the Member will seek advice from the Integrity Commissioner about the application of the Municipal Conflict of Interest Act and whether, in consideration of the circumstances, membership is in the best interests of the Town. In providing this advice, the Integrity Commissioner will consider the risk of harm to the reputation of Council and the Town.

9.0 Discrimination and Harassment

9.1 The Town is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization, and to comply with its obligations under the Occupational Health and Safety Act. It is the Town's goal to provide a healthy, safe, and respectful work environment that is free of any form of harassment or discrimination.

9.2 All Members have a duty to treat members of the public, each other, and Staff with respect and without abuse, bullying or intimidation and to ensure that the workplace is free from discrimination, harassment and violence. In carrying out their affairs, all Members shall comply with the Town's Respect in the Workplace Policy as well the Ontario Human Rights Code and the Occupational Health and Safety Act and any other applicable Town policies.

9.3 Members shall not use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any Staff with the intent of interfering in the Staff's duties, including the duty to disclose improper activity.

9.4 Members shall not compel any Staff to engage in partisan political activities or subject them to threats or discrimination for refusing to engage in such activities.

10.0 Employment of Member's Family Members

10.1 Members shall not attempt to influence the outcome, or to influence any Staff to hire or promote an individual from the Member's family.

10.2 Members shall not make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member.

10.3 Members shall not supervise a Family Member or be placed in a position of influence over a Family Member.

10.4 Members shall not attempt to use a family relationship for their personal benefit or gain.

11.0 Improper Use of Influence

11.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of their Duties.

11.2 Members should not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves or a Family Member or associates or for the purpose of creating a disadvantage to another person.

12.0 Conflicts of Interest

12.1 Members shall take appropriate steps to avoid conflicts of interest, both apparent and real. Proactive steps to mitigate conflict of interest are important to maintaining public confidence in elected officials. Members may seek guidance from the Integrity Commissioner if they may have a conflict between their responsibilities to the public as a Member of Council and any other interest, pecuniary or non-pecuniary.

12.2 Members shall comply with applicable sections of the *Municipal Conflict of Interest Act*, as amended from time to time. When a Member discloses a pecuniary interest, the Member must file a written statement of the Member's interest at the meeting with the Clerk, or as soon as possible afterwards.

12.3 The Town is required to establish and maintain a registry of statements and declarations of conflicts of interest of Members, which shall be available for public inspection.

13.0 Election Activity

13.1 Members of Council are required to conduct themselves in accordance with the Municipal Elections Act, 1996, as may be amended from time to time, and applicable Town policies. The use of Town resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

13.2 Members shall not obtain financial gain from the use of Town-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 Town.

13.3 Members shall not use information that is not available to the general public for any purposes other than their Duties.

13.4 During election campaigns, Members should comply with the Use of Corporate Resources for Elections Policy.

14.0 Traditional Media and Social Media Communications

14.1 Members shall respect that the Mayor is the official spokesperson for Council and all positions of same for both traditional and social media communications, unless otherwise provided for.

14.2 Members will accurately communicate the decisions of Council even if they disagree with the decision, so that there is respect for and integrity in the decision-making processes of Council.

14.3 Members may state that they did not support or voted against a decision of Council but should refrain from making disparaging comments about other Members and the process whereby the decision was undertaken.

14.4 Aspects of this Code applying to communications with the traditional media and public shall also apply to communications using social media. Members shall express themselves on social media respectfully, in an open, transparent and publicly accountable manner and in accordance with the principles set out in the Code.

14.5 Members shall be mindful that social media use does not excuse them from their obligations under this Code regardless of the following:

- i. whether or not they use their Council title on the social media platform(s); or
- ii. if a disclaimer is posted that the views expressed therein are only personal opinions and not those of the Town or their local municipality.

14.6 Members shall not use the Town's property or intellectual property in social media posts that are unconnected to Town business.

14.7 Members shall not engage in campaign activities on social media accounts which use their official title, or from which they conduct official business of the Town.

14.8 Members shall consider their public obligations to engage in dialogue with those who

may disagree with them; however, Members are not obligated to accept abuse, bullying, harassment, trolling, threatening behaviour or conduct that violates the law by anyone on social media (including fellow Members). Members may report to the social media platform, or, in extreme cases, advise appropriate legal authorities about individuals who are engaging in any of the behaviour noted above. The Integrity Commissioner may be relied upon for advice in these instances prior to any such action being taken.

15.0 Conduct at Council and Committee Meetings

- 15.1** During Council meetings, members shall show respect and conduct themselves with decorum and mutual respect at all times during presentations by staff, the public and fellow members.
- 15.2** Decorum will include showing respect for deputations and for fellow members and staff, showing courtesy, respect and not distracting from the business of Council during presentations and when other members have the floor to speak. Using words that are respectful and that promote dignity. Members shall make honest statements.
- 15.3** Members must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect.
- 15.4** Members may not make statements known to be false or make a statement with the intent to mislead Council or the public.

16.0 Reprisals and Obstruction

- 16.1** Members shall not obstruct the Integrity Commissioner in the carrying out of their responsibilities. Examples of such obstruction may include, but are not limited to, the destruction of documents, erasing of electronic communications or refusal to respond in writing to a Complaint lodged pursuant to the Complaint Protocol/Procedures adopted as part of this Code.
- 16.2** Members shall not threaten or undertake any act of reprisal against a person initiating a Complaint under the Code or who provides information to the Integrity Commissioner in any investigation or Inquiry undertaken by the Integrity Commissioner.

17.0 Compliance

- 17.1** Upon receipt of the Integrity Commissioner's recommendations, and where the Integrity Commissioner reports that in their opinion, there has been a violation of this Code, Council may impose the following penalties on a Member as authorized by the

Municipal Act, 2001, 2001:

- (a) A reprimand; or
- (b) Suspension of the remuneration paid to the Member in respect of their services as a Member for a period of up to 90 days.

17.2 Where the Integrity Commissioner reports that in their opinion, there has been a violation of this Code, the Integrity Commissioner may also recommend that Council take other remedial actions. Such remedial actions must be measures which are intended to address the violation and the effects of the violation. Such remedial actions may include but are not limited to the following:

- (a) Requiring repayment or reimbursement of funds received by the Member.
- (b) Requiring the return of property, or reimbursement of its equivalent monetary value, received by the Member.
- (c) Requiring a written and/or verbal apology from the Member to Council, the complainant, or to another appropriate person.
- (d) Removal from membership of a Committee (if applicable) where, due to the Member's violation of this Code, it would no longer be appropriate for the Member to sit on the Committee.
- (e) Removal as chair of a Committee (if applicable) where, due to the Member's violation of this Code, it would no longer be appropriate for the Member to serve as chair the Committee.

17.3 Upon Council's decision on the Integrity Commissioner's recommendations, the Member who has violated this Code shall comply with Council's decision. Failure to comply with Council's decision shall constitute a further contravention of this Code and may result in additional and potential escalation of penalties.

18.0 Implementation

18.1 Each new term of Council shall include a presentation by the Integrity Commissioner on this Code.

18.2 Members are expected to formally and informally review their adherence to the provisions of this Code on a regular basis or when so requested by the Integrity Commissioner.

18.3 If an individual Member is not able to attend the formal presentation by the Integrity Commissioner at the commencement of the Council term, they are encouraged to meet with the Integrity Commissioner separately.

18.4 Members and the public should not assume that any unethical activities not covered

by or not specifically prohibited by this Code or by any legislation, are therefore condoned.

19.0 Role of the Integrity Commissioner

19.1 The Integrity Commissioner is an officer appointed by Town Council as authorized by Section 223.3 of the Municipal Act, 2001, 2001. As defined by this Act, the Integrity Commissioner is responsible for performing the following functions in an independent manner:

- (a) Providing advice on the application of this Code for Members.
- (b) Providing advice on the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of Members.
- (c) Providing advice to Members on the application of Sections 5, 5.1, 5.2 and 5.3 of the Municipal Conflict of Interest Act.
- (d) Responding to requests from Members for advice respecting their obligations under this Code.
- (e) Responding to requests from Members for advice respecting their obligations under a procedure, rule or policy of the municipality that governs the ethical behaviour of Members.
- (f) Responding to requests from Members for advice respecting their obligations under the Municipal Conflict of Interest Act.

With respect to requests for advice, referred to in paragraphs (d), (e), and (f) above:

- i. Requests for advice from Members shall be in writing and the Integrity Commissioner shall provide all advice in writing.
 - ii. If all the facts known to the Member are disclosed to the Integrity Commissioner and there is no change to these facts, then the Member may rely on any written advice provided by the Integrity Commissioner.
 - iii. If the Integrity Commissioner receives a formal Complaint in respect of the matter for which advice was given, the written advice provided to the Member will not remove the presumption of neutrality of the Integrity Commissioner or unfairly prejudice the Member.
- (g) Providing educational information to Members, the municipality and the public about this Code and about the Municipal Conflict of Interest Act.

19.2 Regarding requests for advice referred to in paragraphs 19.1(d), (e) and (f) above, the Integrity Commissioner may still receive and investigate Complaints for which written advice was given. The Integrity Commissioner may also decide to delegate the investigation of a Complaint under subsection 223.3(3) of the Municipal Act, 2001.

19.3 The Integrity Commissioner does not have jurisdiction to conduct inquiries regarding

the conduct of Employees in the course of their duties in the administration of the decisions of Council. Any requests that the Integrity Commissioner investigate the actions, omissions or decisions of the administration of Council are not within the Integrity Commissioner's jurisdiction. Such matters are to be directed to the Town's appointed or applicable Ombudsman.

- 19.4** Should it be unclear whether a Complaint falls within the mandate of the Region or the Town, the Regional and Town Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). Where the Regional and the Town's Integrity Commissioner is the same person or firm, that Integrity Commissioner will decide under which mandate the Complaint falls. In such instances, consideration will be given to the following:
- (a) The municipality in which the Complaint was filed;
 - (b) The municipality in which the expense/mileage claim was submitted for an event or function; and
 - (c) The reasonableness for the respective municipality's Integrity Commissioner to undertake the investigation.

19.5 The Integrity Commissioner shall provide clarification regarding any part of this Code for Members, members of the public or Employees. Employees cannot provide advice regarding how an individual should interpret this Code.

19.6 Items 19.1 through 19.5 above shall apply regardless of the individual or firm appointed by Council as its Integrity Commissioner under Section 223.3 of the Municipal Act, 2001.

20.0 Informal Complaint

20.1 Any person who has identified or witnessed a behaviour or activity by a Member that appears to be in contravention of the Code may address their concern regarding the Member's behavior directly with the Member. The Member who is the subject of the complaint shall endeavour to resolve the concern with the individual filing the complaint in a respectful manner that is following the Code.

20.2 In the event that a person wishes to make a complaint without initiating a formal complaint process, they may pursue the following process:

- i. Advise the Member that the behaviour or activity appears to contravene the Code.
- ii. Encourage the Member to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity.

- 20.3** If the Member stops the prohibited behaviour or activity, the process may terminate at this step. If not, the complainant should continue the process below.
- i. Document the incidents including dates, times, locations, other persons present, and any other relevant information. Request that the Integrity Commissioner assist in the informal discussion of the complaint with the Member to resolve the issue. If applicable, confirm to the Member whether their response is satisfactory or, if applicable, advise the Member that the response is not satisfactory; and
 - ii. Pursue the matter in accordance with the Formal Complaint Process outlined starting in Section 21 below, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
- 20.4** Individuals are encouraged to pursue this Informal Complaint Process as a means of stopping and remedying a behaviour or activity that they believe violates the Code. The Informal Complaint Procedure will not apply to Complaints against Members in respect of Section 5, 5.1, 5.2 or 5.3 of the Municipal Conflict of Interest Act.
- 20.5** With the consent of both the complainant and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a Complaint. However, it is not a precondition or a prerequisite that a complainant pursues the Informal Complaint Process prior to pursuing the Formal Complaint Process set out in Section 21 below.
- 20.6** The Integrity Commissioner will assess the suitability of the Informal Complaint Process for settlement or resolution on an ongoing basis and may at any time decline to continue participation in the process. The complainant or the Member can decline to participate in the Informal Complaint Process at any time. The Informal Complaint Process is informal and as such the Integrity Commissioner will not perform an official Inquiry or investigation and will not provide a public report, even if the parties agree to involve the Integrity Commissioner.

21.0 Initiation of Formal Complaint Process

- 21.1** All formal Complaints must be made using Town Form/Affidavit as made available on the Town's website and shall be dated and signed by an identifiable individual. Anonymous Complaints, Complaints made by organizations, Complaints using aliases or Complaints made on behalf of another person will not be accepted.
- 21.2** The Complaint must include an explanation as to why the issue raised may be a contravention of the Code and any evidence in support of the allegation must be included with the Complaint Form/Affidavit. The Complaint must be made within six (6) months of the alleged violation or no action will be taken by the Integrity Commissioner.
- 21.3** The Complaint Form/Affidavit must include the name of the Member alleged to have breached the Code, the section of the Code allegedly contravened, the date and location of the alleged contravention and any other information as required on the Complaint Form/Affidavit;
- 21.4** The Complaint shall be filed with the Integrity Commissioner requesting that the Integrity Commissioner determine whether a Member has contravened the Code.
- 21.5** Council as a whole may also file a Complaint against any of its Members of an alleged contravention of the Code by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.

22.0 Formal Complaint Process – Municipal Conflict of Interest Act

- 22.1** An elector, as defined in Section 1 of the Municipal Conflict of Interest Act or a person demonstrably acting in the public interest (collectively, "**complainant**") may file a request that the Integrity Commissioner carry out an Inquiry concerning an alleged contravention of Section 5, 5.1, 5.2 or 5.3 of that statute by a Member in accordance with the following requirements:
- a) all requests (also referred to as "**Complaints**") shall be in writing on the prescribed form as made available on the Town's website, dated and signed by an identifiable individual; anonymous Complaints, Complaints made by organizations or Complaints using aliases will not be accepted;
 - b) the request shall include a statutory declaration attesting to the fact that:
 - i. the complainant became aware of the contravention not more than six weeks before the date of the Complaint, or

- ii. that the complainant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection 223.4.1 (5) of the Municipal Act, 2001.

23.0 Filing of Formal Complaints and Classification

- 23.1** The Complaint may be filed directly with the Integrity Commissioner electronically using the appropriate form as available on Town's website.
- 23.2** Complaints may not be filed with a member of Staff and Staff will not assist in the preparation or submission of Complaints to the Integrity Commissioner.
- 23.3** The Integrity Commissioner shall initially classify the Complaint to determine if the matter is, on its face, a Complaint with respect to non-compliance with the Code and not covered by other legislation or other Council by-laws, policies or procedures, or whether it is a request under Sections 5, 5.1, 5.2 or 5.3 of the Municipal Conflict of Interest Act.

24.0 Refusal to Conduct Investigation

- 24.1** The Integrity Commissioner has discretion as to whether to carry out an investigation or commence or conduct an Inquiry in respect of any Complaint. If the Integrity Commissioner is satisfied, and after considering the information contained in the Complaint, that a Complaint:

- a) is frivolous or vexatious;
- b) is not made in good faith;
- c) constitutes an abuse of process;
- d) discloses no grounds or insufficient grounds of an investigation; or
- e) does not warrant a full investigation,

the Integrity Commissioner shall not be required to investigate and may summarily dismiss the Complaint. Where this becomes apparent during the course of the investigation or Inquiry, the Integrity Commissioner shall terminate the investigation or Inquiry, as the case may be, and provide notice to the complainant and, if necessary, to the Member.

25.0 Opportunities for Resolution

25.1 Following receipt and review of a Complaint or at any time during the investigation where the Integrity Commissioner, in their discretion, believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation or Inquiry, as the case may be, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

26.0 Investigation

26.1 Except where the Integrity Commissioner has a full factual record and believes, in their sole discretion, that no additional information is required, or where otherwise required by the Public Inquiries Act, 2009, or where the Integrity Commissioner has not otherwise terminated the inquiry, the Integrity Commissioner may proceed as follows:

- a) provide the Member with an outline of the Complaint with careful thoroughness of detail to allow the Member to understand the Complaint against them, but the Integrity Commissioner shall not have any obligation to disclose:
 - i. the identity of the complainant; or
 - ii. the identity of any witnesses set out in the Complaint or persons that are questioned/interviewed by the Integrity Commissioner, unless it is essential for the Member to adequately respond to the Complaint, the determination of which shall be made in the Integrity Commissioner's sole and absolute discretion.
- b) request that the Member provide a written response to the allegations in the Complaint to the Integrity Commissioner within 10 business days;
- c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant to the Integrity Commissioner within 10 business days; and
- d) extend the timelines set out above if the Integrity Commissioner deems it necessary to do so in their sole and absolute discretion.

26.2 If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Town's computers and servers, and may enter any Town work location relevant to the Complaint for the purpose of carrying out an investigation or Inquiry, as the case may be, and potential resolution.

- 26.3** The Integrity Commissioner may, but is under no obligation, to provide the Member with a draft of the proposed draft report on the Complaint.
- 26.4** The Integrity Commissioner shall not issue a report finding a violation of the Code on the part of any Member unless the Member has had an opportunity, either in person or in writing, to comment to the Integrity Commissioner on any of the preliminary or proposed finding(s).
- 26.5** The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in a report to Council.
- 26.6** The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the investigation or Inquiry of a Complaint.
- 26.7** The Integrity Commissioner is entitled to undertake further investigations and provide such additional reports to Council where necessary and as required to address any instances where the Member that is subject to the Complaint is in non-compliance with any decision of Council including the failure to comply with any penalties or corrective measure or actions imposed by Council.
- 27.0 No Complaint Prior to Municipal Election**
- 27.1** Notwithstanding any other provision of this Complaint Process, no Complaint may be filed with the Integrity Commissioner and no report shall be made by the Integrity Commissioner to Council during the period starting on nomination day for a regular municipal election year ending on the voting day in a regular election. The referred days are determined in accordance with the Municipal Elections Act, 1996.
- 27.2** If the Integrity Commissioner has received a Complaint and has commenced an Inquiry but has not completed the Inquiry before nomination day in a regular municipal election year, the Integrity Commissioner shall terminate the Inquiry on nomination day but may commence an Inquiry in respect to the same Complaint if within six weeks after the voting day in a regular municipal election the individual who made the request makes a further written request to the Integrity Commissioner in accordance with subsection 223.4(8) of the Municipal Act, 2001.
- 28.0 Advice Provided to Member by Integrity Commissioner**
- 28.1** A Member is entitled to rely on any written advice given to them by the Integrity Commissioner respecting the Code in any subsequent consideration of the conduct of

the Member regarding the same matter, provided that the Member fully disclosed, in writing, all relevant facts known to them and acted in accordance with the written advice provided by the Integrity Commissioner.

28.2 If the Integrity Commissioner applies to a judge under Section 8 of the Municipal Conflict of Interest Act for a determination as to whether the Member contravened Sections 5, 5.1, 5.2 or 5.3 of that statute, the Member is entitled to advise the judge of any written advice given by the Integrity Commissioner, provided that the Member fully disclosed in writing all relevant facts known to them and acted in accordance with the written advice provided by the Integrity Commissioner.

28.3 A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code, the Municipal Conflict of Interest Act, or generally at law with respect to any matter that the Integrity Commissioner is investigating or reviewing with respect to the Member. Further, the Member is not entitled to rely upon any statement(s) made by the Integrity Commissioner during any investigation or review that may impact the Member's rights under the Code, the Municipal Conflict of Interest Act or generally at law.

29.0 Authority to Abridge or Extend

29.1 Notwithstanding any requirement, obligation or timeline set out in the Code or this Complaint Process, the Integrity Commissioner shall retain the right to abridge or extend any provision therein in the public's interest.

30.0 Integrity Commissioner's Reporting Requirements regarding a Complaint

30.1 The Integrity Commissioner shall report to the complainant and the Member no later than 90 days after the official receipt of any Complaint (as determined by the Integrity Commissioner) under the Code. If the investigation process is anticipated to take or takes more than 90 days, the Integrity Commissioner shall provide an interim report to Council and must advise the parties of the approximate date that the report will be available. The Integrity Commissioner may also, at the Integrity Commissioner's discretion, advise any witnesses or other persons of the approximate date the report will be available.

30.2 Where the Complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the Integrity Commissioner's findings, the terms of any settlement and/or any recommended remedial or corrective measure or action.

30.3 The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of

the report, in strict confidence until the report is publicly released. The Member shall have the right to speak to the report if it is considered at a meeting of Council but shall not vote.

30.4 Where the Complaint is not sustained, the Integrity Commissioner may but is not obligated to report to Council on the result of the investigation or any findings. Such information may be reported at their discretion and may also include such information, as the Integrity Commissioner deems necessary, in a report or as part of an annual or other periodic report by the Integrity Commissioner.

30.5 The Integrity Commissioner shall complete an Inquiry under the Municipal Conflict of Interest Act no later than 180 days after the official receipt of any Complaint validly made.

31.0 Findings

31.1 Where the Integrity Commissioner reports to Council that in her or his opinion, there has been a violation of the Code of Conduct, the municipality may impose penalties and remedial actions in accordance with the Municipal Act and the Code of Conduct. Council may impose either of the following penalties on the Member as permitted by the Municipal Act, 2001:

- a) A reprimand
- b) A suspension of the remuneration paid to the Member in respect of his or her services on Council for a period up to 90 days

31.2

If the Integrity Commissioner determines that:

- a) there has been no contravention of the Code , or
- b) a contravention occurred but:
 - i. the Member took all reasonable measures to prevent it;
 - ii. the Member sought and followed the advice of the Integrity Commissioner and provided all relevant facts known to them;
 - iii. it was trivial;
 - iv. it was committed through inadvertence; or
 - v. it resulted from an error in judgement made in good faith;

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the Municipal Act, 2001, including but not limited to a recommendation of no penalty.

31.3 If the Integrity Commissioner considers it appropriate, once they have concluded the investigation as to whether the Member has contravened Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act, they may apply to a judge under Section 8 of the Municipal Conflict of Interest Act for a determination as to whether the Member has contravened that statute. If the Integrity Commissioner does not proceed with an application to the judge, they shall so advise the complainant and provide written reasons.

32.0 Report to Council

32.1 Upon receipt of a report from the Integrity Commissioner with respect to a Code of Conduct Complaint Investigation, the Clerk shall place the report on the next regular agenda of Council for consideration by Council. Council must consider the report at that meeting and may accept or refuse the recommendation set out in the report and accept, refuse or vary any penalties or sanctions contained in the report. A report from the Integrity Commissioner may also be considered by Council in advance of its next regular meeting should Council agree to hold a special or other meeting to consider the report.

33.0 Duty of Council

33.1 Council shall consider and decide on the Integrity Commissioner's report at the same meeting at which the report is tabled.

33.2 When the Integrity Commissioner submits to Council a Code of Conduct Complaint Investigation Report, Council:

- receives the Report;
- may accept, vary or reject the Integrity Commissioner recommendation on sanctions, if any;
- may ask the Integrity Commissioner questions of clarification on her process. Questions seeking clarification go to the Integrity Commissioner. The Member subject of the Complaint is not investigated at Council.

34.0 Public Disclosure

34.1 The Integrity Commissioner and every person acting under their jurisdiction shall preserve confidentiality where appropriate and where it does not interfere with the course of any investigation, except as required by law and as required by this Complaint Process.

34.2 The Integrity Commissioner shall retain all records related to the Complaint and

investigation, although copies may be provided to the Clerk, subject to the duty of confidentiality under subsection 223.5 of the Municipal Act, 2001.

34.3 The identity of the Member who is the subject of the Complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council.

34.4 All reports from the Integrity Commissioner to Council shall be made available to the public by the Clerk.

35.0 Delegation by Integrity Commissioner

35.1 The Integrity Commissioner may delegate in writing to any person, other than a Member, any of the Integrity Commissioner's powers and duties under Part V.1 of the Municipal Act, 2001.

Reference:

Legislative and other authorities

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