

THE CORPORATION OF THE TOWNSHIP OF FARADAY

BY-LAW #5-2019

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**A BY-LAW TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL, LOCAL BOARDS AND COMMITTEES OF THE TOWNSHIP OF FARADAY.**

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**WHEREAS** Section 11 of the *Municipal Act*, S.O. 2001, c. 25, as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations and of its local boards and their operations; and

**WHEREAS** Section 223.2(1) of the *Municipal Act*, S.O. 2001, c.25, as amended, requires municipalities to establish codes of conduct for members of the council of the municipality and of local boards of the municipality as of March 1, 2019; and

**NOW THEREFORE Council of the Corporation of the Township of Faraday hereby enacts as follows:**

1. THAT the Council of the Township of Faraday does hereby adopt the Code of Conduct, attached hereto as Schedule "A".
2. THAT Schedule "A" forms part of this by-law.
3. THAT this By-law shall come into force and take effect upon receiving the final passing thereof.

**READ** a first and second time this 6<sup>th</sup>, day of February, 2019

**READ** a third time and finally passed on this 6<sup>th</sup>, day of February, 2019.

Original Signed, February 6, 2019  
D.J. Purcell - Reeve

Original Signed, February 6, 2019  
Dawn Switzer – Clerk

**SCHEDULE "A" TO  
BY-LAW 5-2019**

**Code of Conduct for Members of Council and of Local Boards  
of the Township of Faraday**

**A. PURPOSE OF THE CODE OF CONDUCT**

The Code of Conduct sets minimum standards for the behaviour of Members of Council, Local Boards and Committees in the performance and discharge of their functions and duties. It has been developed to assist Members to:

1. Understand the standards of conduct that are expected of them and the law that applies in relation to these standards;
2. Fulfill their duty to act honestly and exercise reasonable care and diligence;
3. Act in a way that enhances public confidence in local government; and
4. Identify and resolve situations which might involve a potential misuse of position and authority.

The Code of Conduct operates as a supplement to the existing statutes governing the conduct of Members. Legislation governing the conduct of Members includes:

- *The Municipal Elections Act;*
- *The Municipal Conflict of Interest Act;*
- *The Municipal Freedom of Information and Protection of Privacy Act;*
- *The Municipal Act;*
- *The Provincial Offences Act;*
- *The Human Rights Code; and*
- *The Criminal Code of Canada.*

The Code of Conduct operates as a supplement to Township By-Laws, Policies and Procedures.

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

**B. DEFINITIONS**

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

- (a) **"Clerk"** shall mean the employee who is responsible for exercising general control or management of the administration and affairs of the Municipality and other duties as directed by Council.
- (b) **"Child"** includes a child born within or outside of marriage and includes an adopted child and a person to whom the Member has demonstrated a settled intention to treat as a child of his or her family.
- (c) **"Closed/In-Camera Meeting"** means any meeting of Council, Committee of the Whole, Standing Committee or Board that is closed to the public in accordance with the *Municipal Act, 2001*.
- (d) **"Confidential Information"** includes information in the possession of, or received in confidence by the Municipality, that the Municipality is prohibited from disclosing, that the Municipality is required to refuse to disclose, or that the Municipality chooses not to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation or policy of the Municipality. Without limiting the generality of the foregoing, Confidential Information also includes all information concerning matters dealt with at closed meetings, information that is marked as "confidential",

information obtained by the Member by virtue of their position as a Member that is not in the public domain, or information that is otherwise determined to be confidential by the Clerk, Clerk or as specifically declared by Council.

- (e) **“Council”** means the Council of the Corporation of the Township of Faraday.
- (f) **“Ethically”** means behaving in a manner characterized by honesty, fairness and equality in interpersonal relationships and with respect for the dignity and rights of other people.
- (g) **“Family Member”** includes:
  - (1) A Spouse of the Member;
  - (2) A Child of the Member;
  - (3) A Parent of the Member;
  - (4) A Sibling of the Member, whether by birth, marriage or adoption;
  - (5) A Grandchild, grandparent, aunt, uncle, niece or nephew of the Member;
  - (6) A Parent-in-law of the Member;
  - (7) Any person who lives with the Member on a permanent basis.
- (h) **“Gift”** means any cash or monetary equivalent, fee, object of value, service, personal benefit, travel and accommodation or entertainment. A gift does not include remuneration provided by the Township for the fulfillment of their duties.
- (i) **“Harassment”** includes, but is not limited to, engaging in a course of vexatious or unwanted comment or conduct that is known or ought reasonably to be known to be unwanted and includes Sexual Harassment as defined in the Occupational Health and Safety Act, as amended from time to time.
- (j) **“Member”** includes an elected member of the Municipal Council, the Head of Council and all members of Local Boards and Committees of the Municipality.
- (k) **“Municipality”** means the Corporation of the Township of Faraday.
- (l) **“Parent”** includes those persons who demonstrated a settled intention to treat as a child the Member, whether or not the Member is their natural child.
- (m) **“Spouse”** means a person to whom the Member is married or with whom the Member is living in a conjugal relationship outside of marriage.
- (n) **“Staff”** includes anyone employed by the Municipality, including full-time, part-time, temporary, casual or seasonal Staff, contract Staff, students and volunteers (in accordance with the *Municipal Act*, Council Members are not considered employees of the Municipality).

### C. **GENERAL INTEGRITY**

1. Members shall at all times seek to advance the common good of the Community which they serve.
2. Members shall truthfully, faithfully, ethically and with impartiality, exercise the office to the best of their knowledge and ability.
3. Members shall be committed to performing their functions with integrity, accountability and transparency.
4. Members shall be responsible for complying with all applicable legislation, by-laws, policies pertaining to their position, as well as this Code of Conduct.
5. Members shall at all times serve and be seen to serve the interests of the public and the Township of Faraday in a conscientious and diligent manner and shall approach decision-making with an open mind.

6. Members shall not extend preferential treatment to any individual or organization.

**D. CONDUCT**

**1. CONDUCT AT MEETINGS**

- a. Members of Council shall conduct and convey Council business in an open and public manner (with the exception of Closed Meeting information that is subject to Section 239 of the Municipal Act);
- b. Members of Council shall be expected to review and adhere to the Procedural By-law enacted by Council;
- c. Members of Council shall turn their cell phones to vibrate. The use of phones shall be restricted to emergency calls only. Emergency calls shall be taken in another room.

**2. GENERAL PRINCIPLES OF CONDUCT**

- a. Members shall treat members of the public, staff and each other in a respectful manner, without abuse, bullying, harassment or intimidation.
- b. Members shall not use indecent, abusive, or insulting words or expressions toward any other Member, any member of Staff, or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.

**3. RELEASE OF CONFIDENTIAL INFORMATION**

Members have a duty to hold in strict confidence all Confidential Information. A Member shall not, either directly or indirectly, release, make public or in any way divulge any Confidential Information or any aspect of a *Closed Meeting* deliberation to anyone, unless expressly authorized by Council or required by law to do so.

- a. Members shall not release information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, Chapter M.56*.
- b. Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so.
- c. Members shall not misuse Confidential Information obtained by virtue of their position that is not in the public domain, including e-mails and correspondence from other Members or third parties, such that it may cause detriment to the Corporation, Members of Council, or others, or that is of benefit or detriment to themselves.
- d. Members shall be responsible for the protection of all *Closed Meeting* materials while in their possession. Materials received electronically shall be deleted at the end of the meeting and paper copy materials shall be returned to the Clerk.
- e. The obligation to keep information confidential applies even if the Member ceases to be a Member for any reason.

#### **4. FOSTER RESPECT FOR DECISION-MAKING PROCESS**

- a) All Members shall accurately and adequately communicate the decisions of the Council or Local Boards or Committees, even if they disagree with the decision, such that respect for the decision-making processes is fostered.
- b) Information related to decisions and resolutions of Council, a Local Board or Committee, as the case may be, will normally be communicated to the public by the head of Council, the Local Board or the Committee, or his or her designate.
- c) It is not the intent of this Code of Conduct to restrict the ability of a Member to express a personal opinion on matters of general interest. In such cases, the Member must make it clear that the comment is being made in their capacity as a private citizen, and not as a representative of the Municipality. In no event should a Member express a position that is disrespectful of the decision of the majority of Council, a Local Board or a Committee.
- d) Any use of social media in any form by a Member constitutes communication with the public that is governed by this section. Members shall identify in any social media communication that the views expressed by the Member are the views of that Member personally, and do not represent the views of the Municipality.
- e) If Council has taken a position in a Local Planning Appeals Tribunal, or other tribunal or court, and instructed the Municipal Solicitor to appear at a hearing in support of such position, no Member who disagrees with such position shall give evidence at such hearing or otherwise work against the will of Council expressed in its direction to the Municipal Solicitor in such matter.

#### **5. ACCEPTANCE OF GIFTS AND USE OF MUNICIPAL PROPERTY**

- a) Members shall not accept gifts, personal benefits, or hospitality that is connected with their performance of the duties that may appear to a reasonable member of the public to be in gratitude for influence, or to induce influence. This does not include gifts or personal benefits received as a matter of the protocol or social obligations that normally accompany the responsibility of office.
- b) The objective of these policies is to ensure that Members make decisions based on impartial and objective assessments of each situation, free from influence of gifts, favours, hospitality or entertainment.
- c) Any stipend paid to a Member is intended to fully remunerate the Members for service to the Municipality.
- d) Members are prohibited from soliciting, accepting, offering or agreeing to accept any gifts, commissions, hospitality, rewards, advantages or benefits of any kind, personally or through a Family Member or associate (business or otherwise), that is connected directly or indirectly with the performance of duties of office or could reasonably be construed as being given in anticipation of future, or recognition of past, special consideration by the Member.
- e) The above policy does not preclude Members from accepting:
  - i) Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee, for speaking at an event or for representing the Municipality at an event;

- ii) Political contributions that are otherwise offered accepted and reported in accordance with applicable law;
  - iii) Food and beverages at meetings, banquets, receptions, ceremonies or similar events;
  - iv) Food, lodging, transportation, entertainment provided by other levels of governments, by other local governments or by local government boards or commissions;
  - v) A stipend from a board or commission that the Member serves on as a result of an appointment by Council;
  - vi) Reimbursement of reasonable expenses incurred in the performance of office;
  - vii) Reimbursement of reasonable expenses incurred, and honorariums received in the performance of activities connected with municipal associations;
  - viii) Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office;
  - ix) Services provided without compensation by persons volunteering their time for election campaign, provided the services are properly valued in accordance with the *Municipal Elections Act*.
- f) Where it is not possible to decline unauthorized gifts, hospitality or other benefit, Members shall report the matter to the Clerk. The gift shall become the property of the Municipality and the Clerk may require that the gift be retained by the Municipality or be disposed of for charitable purposes in the Clerk's sole discretion.
- g) No Member shall for personal purposes or profit, use or permit the use of any Municipal property, equipment, services, or supplies other than for purposes connected with the discharge of Municipal duties or associated community activities of which Council has been advised, unless the use is reasonable and incidental personal use of equipment such as computers, fax machines, cell phones, blackberries, etc., where the Municipality incurs no additional costs relating to such use, and the use is of limited duration and frequency.
- h) This policy does not apply to the use of Municipal property and facilities where such use is universally known to be available to other residents upon request and on equal terms.
- i) No Member shall obtain financial gain from the use of Municipally developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Municipality.
- j) Municipal property and resources, including facilities, purchasing provisions, equipment, supplies, Staff and services will not be used for any election campaign activities, before or after Nomination Day.
- k) Members will not undertake campaign-related activities on municipal property unless permitted by the Returning Officer or their designate.
- l) Members will not use the services of Staff for election-related purposes during hours in which those persons receive compensation from the Municipality. For purposes only of this provision, Staff shall include any person under contract with the Municipality or receiving remuneration from the Municipality for any service.

## 6. CONFLICT OF INTEREST

- a) Members must be familiar with and comply with the *Municipal Conflict of Interest Act*, as amended. It is the responsibility of each Member (not Staff) to determine whether they have a direct or indirect pecuniary interest with respect to matters arising before Council, a Local Board or Committee. Each Member shall determine whether he or she has a direct or indirect pecuniary interest and shall at all times comply with the *Act*.
- b) For purposes of this Code of Conduct, a pecuniary interest, direct or indirect, of a Family Member of the Member shall be deemed to also be the personal/pecuniary interest of the Member. All Members shall declare a conflict of interest where they or their Family Member has a pecuniary interest in a matter and shall take all of the actions prescribed in the *Municipal Conflict of Interest Act* as if the *Act* applied to that interest.
- c) In addition to pecuniary interests, Members must perform their duties impartially, such that an objective, reasonable observer would conclude that the Member is exercising their duties objectively and without undue influence. Each Member shall govern their actions using the following as a guide:
  - i) in making decisions, always place the interests of the taxpayers and the Municipality first and, in particular, place those interests before your personal interests and the interests of other Members, staff, friends, business colleagues or Family Members;
  - ii) interpret the phrase "conflict of interest" broadly and with the objective of making decisions impartially and objectively;
  - iii) if there is doubt about whether or not a conflict exists, seek the advice of the Integrity Commissioner or Legal Counsel;
  - iv) do not make decisions that create an obligation to any other person who will benefit from the decision;
  - v) do not make decisions or attempt to influence any other person for the purpose of benefitting yourself, other Members, Staff, friends, business colleagues or Family Members, or any organization that might indirectly benefit such individuals;
  - vi) do not put yourself in the position where a decision would give preferential treatment to other Members, Staff, friends, business colleagues or Family Members, or any organization that might indirectly benefit such individuals; and
  - vii) do not promise or hold out the prospect of future advantage through your influence in return for a direct or indirect personal interest.
- (d) Direct or indirect personal interests do not include:
  - i) a benefit that is of general application across the Municipality;
  - ii) a benefit that affects a Member or his or her Family Members, friends or business colleagues as one of a broad class of persons; or

- iii) the remuneration of Council, a Member or benefits available to Council or Members.

(e) Members have the following obligations:

- i) To make reasonable inquiries when there is reason to believe that a conflict of interest may exist;
- ii) To make Council, the Local Board or Committee aware of the potential Conflict of Interest and where appropriate declare the interest;
- iii) To refuse to participate in the discussion of Council, the Board or Committee and to not vote on the matter or seek to influence the vote of any other Member where a conflict of interest exists;
- iv) To refuse to be involved in any way in the matter once the conflict is identified, including without limitation participating in meetings, facilitating meetings or introductions to Staff or Members or providing advice to any person that would materially advance the matter; and
- v) If the matter which creates the conflict of interest is discussed in closed session, the Member may not attend that portion of the closed session where that matter is discussed.

## **7. RELATIONSHIP WITH STAFF**

a) Mutual respect and cooperation are required to achieve the Council's corporate goals and implement Council's strategies through the work of staff. The role of Council is to lead through setting policy and budget. The role of Council is not to manage or administer.

b) Members shall:

- i) acknowledge that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions. Council directs staff through its decision as recorded in the resolutions and minutes of Council;
- ii) refrain from using their position to improperly influence members of staff to carry out specific tasks or functions or to gain an advantage for themselves or others;
- iii) refrain from publicly criticizing individual members of staff in a way that casts doubt on their professional competence and credibility;
- iv) respect that staff provide advice and make policy recommendations in accordance with their professional ethics, expertise, and obligations. Councillors must not willfully injure the reputation, question the capabilities or performance of staff in a manner that is inappropriate.

c) Members shall not:

- i) maliciously or falsely injure the professional or ethical reputation of Staff;
- ii) compel Staff to engage in partisan political activities or be subjected to threats of discrimination for refusing to engage in such activities; or



- iii) use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any Staff member with the intent of interfering with Staff duties.

## **8. ADVICE AND OPINIONS**

- a) Members may request advice or opinions from the Integrity Commissioner with respect to:
  - ii) The obligations of the Member under the Municipal Conflict of Interest Act;
  - iii) The obligations of the Member under this Code; and
  - iv) The obligations of the Member under a procedure, rule or policy of the Municipality governing the ethical behavior of the Member.
- b) Every request for advice or opinion shall be submitted in writing to the Clerk, who shall forward the request to the Integrity Commissioner for a response.
- c) The Integrity Commissioner shall not provide to any Member any advice or opinion with respect to the obligations of another Member.
- d) Members shall be mindful of the cost to the Municipality to obtain the advice or opinion of the Integrity Commissioner and shall not abuse this entitlement.
- e) The advice and opinions received by any Member are personal to the Member and are considered confidential. No opinion or advice may be shared by the Integrity Commissioner without the written permission of the Member who requested the opinion or advice. The Member may grant permission to share part of an opinion or advice, but in circumstances where the Member shares only a portion of an opinion or advice the Integrity Commissioner may release all or a part of the opinion or advice without the consent of the Member.
- f) Council may require any Member to undertake training with the Integrity Commissioner where Council determines that the Member has requested opinions and advice more frequently than is reasonable in the circumstances. The nature of the training will be to better explain the Member's obligations under this Code and the *Municipal Conflict of Interest Act* to better enable the Member to govern his or her conduct without seeking advice unnecessarily.

## **9. ROLE OF THE INTEGRITY COMMISSIONER**

- a) The Integrity Commissioner shall be appointed by By-law of the Municipality.
- b) The Integrity Commissioner shall operate independently of Council in accordance with all of the authority and powers granted by the *Municipal Act*.
- c) The Integrity Commissioner may delegate his or her duties and powers to any person, other than a Member. The delegation shall be in writing, shall be disclosed to the Clerk and shall set out the precise delegation, including the duration of the delegation.
- d) Any delegation shall be at the sole discretion of the Integrity Commissioner, provided that the delegate is qualified and capable of independently undertaking the work.

- e) The Integrity Commissioner shall make an assessment prior to undertaking any investigation as to whether the complaint gives rise to the need for another entity to undertake an investigation. In those circumstances where the allegations disclose a potential Criminal Code offence or the breach of other legislation (other than the Municipal Conflict of Interest Act), the Integrity Commissioner shall refer the investigation to the appropriate entity and shall not conduct his or her own investigation unless the entity determines that no investigation is required.
- f) The Integrity Commissioner shall prepare and submit to Council an Annual Report that shall include at a minimum:
  - i) A break-down of costs incurred for the following categories of work performed (advice/investigations/dispute resolution/training);
  - ii) A summary of the nature of requests made and the resolution of the matters, without providing any confidential information in the Report; and
  - iii) Any recommendations for improvements to this Code or processes or any procedure, rule or policy of the Municipality governing the ethical behavior of the Member.

**D. COMPLIANCE WITH THE CODE OF CONDUCT**

- a) Every Member shall comply with this Code. Any breach of this Code may be investigated by the Integrity Commissioner in accordance with this Code and Council shall determine whether to impose any penalty or sanction on a Member found to have breached any provision of this Code.
- b) Every Member has an obligation to cooperate with any investigation.
- c) The *Municipal Act* authorizes Council to impose one or more of the penalties listed below, if so desired, on a Member that has contravened this Code of Conduct:
  - i. A reprimand; or
  - ii. Suspension of the remuneration paid to the Member in respect to his or her services as a Member of Council, local Board or Committee, as the case may be, for a period of up to 90 days.
- d) The Integrity Commissioner may also recommend that Council impose one of the following sanctions:
  - i. Written and/or verbal public apology;
  - ii. Return of property or reimbursement of its value or of monies spent;
  - iii. Removal from membership of any Committee or Board;
  - iv. Removal as chair of a Committee or Board; and
  - v. Other sanctions that are reasonably connected to the breach of this Code of Conduct and which the Integrity Commissioner believes in his or her sole discretion are necessary to modify the behaviour of the Member.

**E. INFORMAL COMPLAINT PROCEDURE**

- 1. Any individual who identifies or witnesses behavior or activity by a member of Council that appears to be in contravention of the Code of Conduct may address the prohibited behavior or activity themselves in the following manner:

- a. advise the Member that the behavior or activity appears to contravene the Code of Conduct;
- b. encourage the Member to acknowledge and agree to stop the prohibited behavior or activity;
- c. document the incident(s) including date, time, location, other persons present, and any other relevant information;
- d. consider the need to pursue the matter in accordance with the formal complaint procedure as outlined.

While an individual may pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by this Code of Conduct, an individual is not required to undertake the informal complaint procedure prior to pursuing the formal complaint procedure.

## **F. FORMAL COMPLAINT PROCEDURE—INTEGRITY COMMISSIONER**

1. Any individual who identifies or witnesses behavior or activity by a Member of that appears to be in contravention of the Code of Conduct may file a formal complaint with the following conditions:
  - a. All complaints shall be in writing and shall be dated and signed by complainant;
  - b. The complaint must set out reasonable and probable grounds for the allegation that a Member has contravened the Code of Conduct. All supporting evidence in support of the allegation must be included.
2. Filing a Complaint and Initial Classification
  - a. The complaint shall be filed with the Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is in respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or procedure under another Municipal policy.
  - b. If the complaint does not include supporting evidence, the Integrity Commissioner may defer the classification until evidence is received.
3. Response of the Integrity Commissioner to complaint outside municipal jurisdiction
  - a. If the complaint received is deemed not to be a complaint with respect to noncompliance with the Code of Conduct, the Integrity Commissioner shall advise the complainant in writing as follows:
    - i) Criminal Matter—if the complaint is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complaint shall be advised that pursuit of such an allegation must be made through the appropriate police service.
    - ii) If the complaint is found to be regarding non-compliance with a more specific policy with an established complaint procedure, the complainant shall be advised that the matter will be processed under that procedure.
    - iii) In all other cases, the complainant shall be advised that the matter or part the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional

reasons and referrals as the Integrity Commissioner considers appropriate.

#### 4. Refusal to Conduct an Investigation

If the Integrity Commissioner is of the opinion that the referral of a matter to him/her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation and, where this becomes apparent in the course of an investigation, shall terminate the investigation.

#### 5. Opportunities for Resolution

Following receipt and review of a formal complaint, or at any time during the investigation, where the Integrity Commissioner believes that an opportunity to resolve that matter may be successfully pursued without a formal investigation, and both the complainant and the member agree, efforts may be pursued achieve an informal resolution.

#### 6. Integrity Commissioner's Investigation

If the complaint has been classified as being within the Integrity Commissioner's jurisdiction, the Commissioner will proceed as follows:

- a. The complaint and supporting material shall be provided to the Member whose conduct is in question with a request for a written response.
- b. A copy of the written response from the Member shall be provided to the complainant with a request for a written response.
- c. A copy of the written response from the complainant shall be provided to the Member with a request for a written response.
- d. If necessary, after reviewing the written responses, the Integrity Commissioner may speak to anyone relevant to the complaint, examine documents or electronic material and may enter any municipal worksite relevant to the complaint for the purpose of investigation and potential.
- e. The Integrity Commissioner may make interim reports to Council as required to address any instance of interference, obstruction, or retaliation encountered during the investigation.

#### **G. INTEGRITY COMMISSIONER'S REPORT**

1. The Integrity Commissioner shall report to the complainant and the Member upon completion of the investigation.
2. Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, and any recommended corrective action.
3. Where the complaint is not sustained, the Integrity Commissioner shall not report to Council the results of the investigation, except as part of the general annual report.

#### **H. TIMING OF COMPLAINTS IN RELATION TO MUNICIPAL ELECTIONS**

- a) Complaints must be investigated, and a report submitted to Council on or before Nomination Day in the year of a municipal election.
- b) Investigations of complaints that are not completed as of Nomination Day in an election year shall be terminated on Nomination Day.

- c) The complainant may re-commence the complaint within six (6) weeks of Voting Day by submitting a written request to the Integrity Commissioner, who shall, provided the request is received on or before six (6) weeks from Voting Day, recommence the investigation.
- d) In addition, on or after Nomination Day in the year of a municipal election:
  - i) no complaint shall be filed;
  - ii) the Integrity Commissioner shall not report to the Municipality about an ongoing investigation; and
  - iii) the Municipality shall not consider whether to impose any penalty on a Member subsequent to an investigation.

## **I. COMPLAINTS UNDER THE MUNICIPAL CONFLICT OF INTEREST ACT**

- a) After March 1, 2019, an elector as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest, may submit a request to the Integrity Commissioner to conduct an investigation concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by filing with the Clerk a completed and signed complaint form and paying the prescribed fee of \$150.00.
- b) No request may be submitted more than six (6) weeks after the complainant became aware of the alleged contravention.
- c) A request for an investigation in an election year may only be submitted prior to Nomination Day or after Voting Day.
- d) In the event that a complainant becomes aware of the alleged contravention within the period of time starting six (6) weeks before Nomination Day in an election year, the complainant may apply to the Integrity Commissioner within six (6) weeks after the day after Voting Day, provided that the complainant includes in their written request for an investigation a statutory declaration attesting to the fact that the complainant became aware of the contravention not more than six (6) weeks before the date of the request, or in the case where a complainant became aware of the alleged contravention prior to Nomination Day, a declaration that the facts were not known to the complainant more than six (6) weeks prior to Nomination Day.
- e) The Integrity Commissioner has all the powers set out in the *Municipal Act* when undertaking an investigation under this section and shall follow the investigation process established in paragraph 12 above.
- f) Where an investigation has not been completed before Nomination Day in an election year, the Integrity Commissioner shall terminate the investigation on that day.
- g) An investigation that has been terminated pursuant to paragraph 1(f) above shall not be recommenced unless the person who made the request, or the Member whose conduct is at issue, applies in writing to the Integrity Commissioner to re-commence the investigation within six weeks of Voting Day.
- h) The Integrity Commissioner shall complete the investigation within 180 days of receipt of the complaint, unless the investigation is terminated in accordance with paragraph 22 above.
- i) The Integrity Commissioner may, after completing an investigation, apply to a judge in accordance with the *Municipal Conflict of Interest Act* for a determination under the Act. Prior to making an application to court, the Integrity Commissioner shall present to Council a request to make the application and allow Council to provide recommendations to the Integrity Commissioner as to whether such an application should be

made. The Integrity Commissioner is not bound by the advice or recommendation of Council and shall refer the matter to a judge in his or her sole discretion.

#### **J. PUBLIC DISCLOSURE**

- 1) The Integrity Commissioner and every person acting under their instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of their duties. Information may be disclosed in a criminal proceeding as required by law
- 2) If the Integrity Commissioner provides periodic report to the municipality on their activities, the Integrity Commissioner may summarize advice they have given but shall not disclose confidential information that could identify a person concerned.
- 3) If the Integrity Commissioner reports to the municipality their opinion about whether a member of council has contravened the Code of Conduct, they may disclose in the report such matters as are deemed necessary.
- 4) The Municipality shall ensure that reports received from the Integrity Commissioner are made available to the public.

#### **K. IMPLEMENTATION**

1. A Code of Conduct component will be included as part of the orientation workshop for each new Council and Local Boards, Committee appointments.
2. Members are expected to review their adherence to the provisions of the Code on a regular basis.
3. Members shall respect the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone providing information to the Integrity Commissioner is prohibited.
4. It is 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.