

“Appendix A”

Council Code of Conduct

Complaint Protocol

A. Informal Complaint Procedure

Council, a member of Council or a member of the public who has identified or witnessed behaviour or an activity by a member of Council that they believe is in contravention of the Code of Conduct who wishes to address this behaviour or activity through the informal complaint procedure shall:

1. File a written request and supporting affidavit with the Clerk, noting grounds for belief of an alleged contravention including, dates, times, locations, other persons present and any other relevant information.
2. The Clerk shall provide to the subject member of Council a copy of the allegation without disclosing the identity of the complainant.
3. The member of Council will be provided ten working days in which to provide the Clerk with a written response to the allegation. ten working days in which to:
4. The complainant will be provided a copy of the member’s response and be given
 - a) Provide a written response to the Clerk stating satisfaction with the response; or,
 - b) Provide a written response to the Clerk stating dissatisfaction with the response and the need to pursue the matter in accordance with the Formal Complaint Procedure of the protocol.
5. The Clerk shall advise the member of the complainant’s position.

Anyone wishing to file a request for an investigation is encouraged to initially pursue the Informal Complaint Procedure as a means of stopping and remedying the behaviour or activity that is inconsistent with the Code of Conduct. However, it is not a precondition or prerequisite that the complainant pursue the Informal Complaint Procedure prior to pursuing the Formal Complaint Procedure.

B. Formal Complaint Procedure

Under Section 223.4(1) of the Municipal Act, 2001, Council, a Member, or a member of the public may request the Integrity Commissioner (the “IC”) to conduct an inquiry about whether a Member has contravened the Council Code of Conduct.

1. Request for Inquiry

A request for an inquiry shall be in writing.

- a) All requests for an inquiry shall be signed by an identifiable individual (which includes the signing officer of an organization).
- b) A request for an inquiry shall set out all reasonable and probable grounds for the allegation that the Member has contravened the Council Code of Conduct and shall include a supporting affidavit that sets out the evidence in support of the complaint.
- c) Staff in the office of the Town Clerk, who are commissioners for taking affidavits, are authorized to swear the supporting affidavit.
- d) All requests must include a signed Consent and Confidentiality Agreement.
- e) All requests must be submitted within six weeks of the complainant becoming aware of the alleged contravention, and no more than six months after the alleged violation.
- f) The fee to initiate a formal request is \$200.00, payable in cash, or certified cheque to the Town. This fee will be refunded if the Integrity Commissioner determines that the complaint warrants proceeding to the investigation stage.
- g) In a municipal election year, starting on Nomination Day and ending on Voting Day, no requests for an inquiry shall be submitted to the IC and the IC shall not report to the Town about whether or not a Member contravened the Council Code of Conduct.
- h) If the IC has not completed an inquiry into a potential Council Code of Conduct violation before Nomination Day for a regular election, the IC shall terminate the inquiry on that day. If the IC terminates an investigation, the IC shall not start another investigation into the matter unless, within 6 weeks after Voting Day in a regular election, the person who made the request or the Member or former Member whose conduct is concerned makes a written request to the IC that the inquiry be commenced.

2. Initial Review by the Integrity Commissioner

- a) The request shall be filed with the Town Clerk who shall forward the matter to the IC for initial review to determine if the matter is, on its face, within the time limitation and is a complaint with respect to non-compliance with the Council Code of Conduct and is not covered by other legislation or other Council policies.
- b) If the request does not include the required affidavit, the request will be deemed incomplete and the Town Clerk will return the request to the complainant.
- c) If the complaint, including any supporting affidavit, is not on its face, a complaint with respect to non-compliance with the Council Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the IC shall advise the complainant in writing as follows:

- a) If the complaint is, on its face, an allegation of a contravention of the Municipal Conflict of Interest Act, the IC will investigate it as outlined in Appendix “B”.
- b) If the complaint on its face is an allegation of a criminal nature consistent with the Criminal Code of Canada, the IC shall refer it to the appropriate authorities and advise the complainant that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police service.
- c) If the complaint on its face relates to non-compliance with the Municipal Freedom of Information and Protection of Privacy Act, the Complainant shall be advised that the matter will be referred to the Town Clerk for review.
- d) If the complaint on its face is with respect to non-compliance with a different Council policy, with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure.
- e) In other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the IC to process, with any additional reasons and referrals as the IC considers appropriate.
- f) The IC shall report annually to Council on complaints made that were determined not to be within the jurisdiction of the IC, but shall not disclose information that could identify a person concerned.

3. Integrity Commissioner Investigations

- a) If the IC is of the opinion that the referral of a matter to them is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the IC shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, shall terminate the investigation.
- b) The IC shall report to Council that a specific complaint has been terminated, but shall not disclose confidential information that could identify a person concerned.

4. Investigation & Settlement

- a) If a complaint has been classified as being within the IC’s jurisdiction and not rejected under section 2 or 3, the IC shall investigate and may attempt to settle the complaint.
- b) Section 223.4(2) of the Municipal Act, 2001, authorizes the IC to exercise the powers of a commission under Parts I and II of the Public Inquiries Act.
- c) When the Public Inquiries Act applies to an investigation of a complaint, the IC shall comply with the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.

- d) Bearing in mind the confidentiality requirements of the Municipal Act, 2001, it will be at the discretion of the IC whether to disclose the identity of the complainant to relevant parties in order to facilitate the investigation. Any party to this investigation who is made aware of the identity of the complainant is bound to maintain the secrecy of the complainant and is not to use this information for any purpose other than to provide a full answer or defence to the complaint.
- e) The IC will proceed as follows, except where otherwise required by the Public Inquiries Act:
 - a) Serve the complaint and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit be filed within ten days or such longer period as the IC may authorize in writing; and
 - b) Serve a copy of the response provided by the Member upon the complainant with a request for a written reply within ten days or such longer period as the IC may authorize in writing.
- f) Section 33 of the Public Inquiries Act allows the IC to require anyone relevant to the complaint to give evidence and to access and examine any information relevant to the complaint and to enter any work location of the Town relevant to the complaint for the purpose of investigation and settlement. The IC is to be provided free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the Town.
- g) The IC shall not issue a report finding a violation of the Council Code of Conduct on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.
- h) The IC may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

5. Final Report

- a) The IC shall report to the complainant and the Member, generally no later than 90 days after the making of the complaint.
- b) Where the complaint is sustained in whole or in part, the IC shall also report to Council outlining their findings and/or recommended penalty and the terms of any settlement.
- c) Where the complaint is dismissed, other than in exceptional circumstances, the IC shall not report to Council except as part of an annual or other periodic report.

- d) Any recommended corrective action or penalty must be permitted by the Municipal Act, 2001, and shall be designed to ensure that the inappropriate behaviour or activity does not continue and is not repeated.

6. Member Not Blameworthy

- a) If the IC determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the IC shall so state in the report and shall make recommendations with respect to any corrective action, having regard to the findings.

7. Copies

- a) The IC shall give a copy of the report to the complainant and the Member that was involved.

8. Report to Council

- a) The Town Clerk shall process all report of the IC to the next available meeting of Council. The report shall remain confidential until the matter has received complete and final disposition by the IC and has been reported out to Council.

9. Council Review

- a) Council shall consider and respond to the report within 90 days after the day the report is laid before it.
- b) Section 223.4(5) of the Municipal Act, 2001, allows the Town to impose either of the following penalties on a Member if the Commissioner reports to the Town that, in their opinion, the Member has contravened the Council Code of Conduct:
 - a) A reprimand.
 - b) Suspension of the remuneration paid to the Member in respect of their service as a Member, for a period of up to 90 days.

10. Confidentiality

- a) Section 223.5(1) of the Municipal Act, 2001, provides that the IC shall preserve secrecy with respect to all matters that come to their knowledge in the course of their duties.
- b) If the IC provides a periodic report to the Town on their activities, the IC may summarize advice they have given but shall not disclose confidential information that could identify a person concerned.

- c) If the IC reports to the Town their opinion about whether a Member has contravened the Council Code of Conduct, the IC may disclose in the report such matters as in the IC's opinion are necessary for the purpose of the report (including the name of the Member whose conduct was investigated).

11. Request for Reimbursement of Member's Costs

- a) A member of Council who is party to a complaint under this procedure where the findings of the Integrity Commissioner do not substantiate a contravention of the Code of Conduct or that the member was not blameworthy as set out in section 6 of this Protocol, may apply to the Town for reasonable reimbursement and relevant expenses. Such application shall be referred to the Town's solicitor for a ruling on whether reimbursement under the By-law is applicable.

“Appendix B”
Conflict of Interest
Investigation Protocol

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Conflict of Interest

Investigation Protocol

Under Section 223.4,1(2) of the Municipal Act, 2001, a Member, an elector as defined in the Municipal Conflict of Interest Act, or a member of the public demonstrably acting in the public interest, may request the Integrity Commissioner (the “IC”) to conduct an inquiry about whether a Member has contravened Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act, as set out in Appendix “C”.

1. Request for Inquiry

- a) A request for an inquiry into a potential contravention of Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act shall be in writing and may only be made within six weeks of the complainant becoming aware of the alleged contravention.

NOTE: If both of the following are satisfied, the six-week limitation period does not apply: 1) The complainant became aware of the alleged contravention within the period starting six weeks before Nomination Day for a regular election and ending on Voting Day; and, 2) The complainant makes the request for an inquiry within six weeks after Voting Day in a regular election.

- b) All requests shall be signed by an identifiable individual (including the signing officer of an organization).
- c) A request shall set out all reasonable and probable grounds for the allegation that the Member has contravened Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act and shall include a supporting affidavit that sets out the evidence in support of the complaint.
- d) Staff in the office of the Town Clerk, who are commissioners for taking affidavits, are authorized to swear the supporting affidavit.
- e) In a municipal election year, starting on Nomination Day and ending on Voting Day, no requests for an inquiry shall be submitted and the IC shall not report to the Town about whether or not a Member of Council contravened the Municipal Conflict of Interest Act.

2. Initial Review by Integrity Commissioner

- a) The request shall be filed with the Town Clerk who shall forward the matter to the IC for initial review to determine if the matter is, on its face, a complaint with respect to non-compliance with Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act.

- b) If the request does not include the required affidavit, the Town Clerk shall not forward the request to the IC until one is provided.
- c) If the complaint, including any supporting affidavit, is not on its face, a complaint with respect to non-compliance with Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act or the complaint is covered by other legislation or a complaint procedure under another Council policy, the IC shall advise the Complainant in writing as follows:
 - a) If the complaint is, on its face, an allegation of a contravention of the Council Code of Conduct, the IC will investigate it as outlined in Appendix "A".
 - b) If the complaint on its face is an allegation of a criminal nature consistent with the Criminal Code of Canada, the Integrity Commissioner shall refer it to the appropriate authorities and advise the complainant that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police service;
 - c) If the complaint on its face relates to non-compliance with the Municipal
 - d) Freedom of Information and Protection of Privacy Act, the complainant shall be advised that the matter will be referred to the Town Clerk for review.
 - e) If the complaint on its face is with respect to non-compliance with a different Council policy, with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and
 - f) In other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the IC to process, with any additional reasons and referrals as the IC considers appropriate.
- d) The IC shall report annually to Council on complaints made that were determined not to be within the jurisdiction of the IC, but shall not disclose information that could identify a person concerned.

3. Integrity Commissioner Investigations

- a) If the IC is of the opinion that the referral of a matter to them is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the IC shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, shall terminate the investigation.
- b) Other than in exceptional circumstances, the IC shall not report to Council on any complaint described in subsection (i) except as part of an annual or other periodic report.

4. Investigation & Settlement

- a) If a complaint has been classified as being within the IC's jurisdiction and not rejected under Section 2 or 3, the IC shall investigate and may attempt to settle the complaint.

- b) The IC shall complete their investigation within 180 days after the date of submission of the complaint.
- c) Section 223.4(2) of the Municipal Act, 2001, authorizes the IC to elect to exercise the powers of a commission under Parts I and II of the Public Inquiries Act.
- d) When the Public Inquiries Act applies to an investigation of a complaint, the IC shall comply with the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.
- e) The IC will proceed as follows, except where otherwise required by the Public Inquiries Act:
 - a) Serve the complaint and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit be filed within ten days or such longer period as the IC may authorize in writing; and,
 - b) Serve a copy of the response provided by the Member upon the complainant with a request for a written reply within ten days or such longer period as the IC may authorize in writing.
- f) Section 33 of the Public Inquiries Act allows the IC to require anyone relevant to the complaint to give evidence and to access and examine any information relevant to the complaint and to enter any work location of the Town relevant to the complaint for the purpose of investigation and settlement. The IC is to be provided free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the Town. The IC may conduct a public meeting to discuss the inquiry.
- g) Upon completion of the inquiry, the IC may, if they deem it appropriate, apply to a judge under Section 8 of the Municipal Conflict of Interest Act, for a determination as to whether the Member has contravened Section 5, 5.1, or 5.2 of the Act.
- h) After making their decision as to whether or not to apply to a judge as set out above, the IC will provide the Town Clerk, the complainant and the Member with written reasons for the decision. Upon request, the Town Clerk will also provide a copy of the written reasons to a member of the public.
- i) The City shall pay any costs incurred by the IC in making its application to a judge as set out above.
- j) The IC may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during their investigation.

5. Final Report

- a) The IC's written submission to the Town Clerk outlining their decision to not apply to a judge under Section 8 of the Municipal Conflict of Interest Act, for a determination as to whether the Member has contravened Section 5, 5.1, or 5.2 of the Act shall constitute the final report on the matter.
- b) Where the IC has applied to a judge under Section 8 of the Municipal Conflict of Interest Act, for a determination as to whether the Member has contravened Section 5, 5.1, or 5.2 of the Act, the resulting court decision shall constitute the final report on the matter. The Town Clerk shall post this court decision on the Town's website.

6. Confidentiality

- a) Section 223.5(1) of the Municipal Act, 2001, provides that the IC shall preserve secrecy with respect to all matters that come to their knowledge in the course of their duties.
- b) If the IC provides a periodic report to the Town on their activities, the IC may summarize advice they have given but shall not disclose confidential information that could identify a person concerned.
- c) The IC may disclose any information that is, in their opinion necessary for:
 - a) the purposes of a public meeting into an inquiry as to whether a Member has contravened Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act;
 - b) in an application to a judge for a determination as to whether a Member has contravened Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act;
 - and,
 - c) in the written reasons provided by the IC as to why they did/did not apply to a judge as to whether a Member has contravened Section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act.