

TOWN OF GRIMSBY CODE OF CONDUCT
BY-LAW NO. 20-74
CONSOLIDATED





Amendments to Code of Conduct 20-74

By-law #	Effective Date	Sections Amended
20-93	November 14, 2020	Section 3(b) Integrity Commissioner Investigation of Appendix 'A'
24-74	September 9, 2024	1.4-1.6, 2-7, 12-14, 16-18, Appendix A



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By-law to establish a Code of Conduct for the Council of the Town of Grimsby and Local Boards of the Municipality

Whereas subsection 223.2(1) of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes the municipality to establish codes of conduct for members of council of the municipality and of local boards of the municipality;

Now therefore by its Council, the Corporation of the Town of Grimsby hereby enacts as follows:

Preamble

Members of Council have the privilege of attaining elected office. Members of the Town's Local Boards have the privilege of being appointed to public office. That privilege carries significant responsibilities and obligations with respect to the public trust. In order to strengthen the role of Council and the Town's Local Boards and to enhance public trust with respect to the obligations of Members, this Code is established to govern and regulate the ethical conduct of all Members. This Code also supplements other existing Federal and Provincial legislation and by-laws and policies of the Town that govern the conduct of Members which include but are not limited to the following:

- Criminal Code of Canada;
- Municipal Act, 2001;
- Municipal Conflict of Interest Act;
- Municipal Freedom of Information and Protection of Privacy Act;
- Occupational Health and Safety Act (Violence and Harassment in the workplace);
- Human Rights Code;
- Planning Act;
- Municipal Elections Act; and
- All by-laws and policies approved by the Council of the Town.

1. Principles & Purpose

- 1.1 The Code sets out and identifies the Town's expectations for its Members and establishes rules for appropriate conduct.

- 1.2 The public expects the highest moral and ethical standards of conduct from its Members. The behaviour and actions of Members is expected to reflect the principles of accountability, transparency, and public trust. Adherence to these standards will protect and maintain the Town's reputation and integrity.
- 1.3 The key statements of principle that underline this Code are as follows:
- (a) the decision-making process of Council is open, accessible, and equitable, and respects the Town's governance structure;
 - (b) members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
 - (c) members are expected to perform their duties and arrange their private affairs in a manner that promotes public confidence and which will bear close public scrutiny;
 - (d) members shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and Council of the Town;
 - (e) public office is not to be used for the personal financial benefit of any Member;
 - (f) town residents should have confidence in the integrity of their local government and of their Members; and
 - (g) the conduct of each Member demonstrates fairness, respect for differences, and a duty to work with other Members together for the common good.
- 1.4 The key principles set out in Section 1.3 are intended to facilitate an understanding, application and interpretation of the Code – the key principles are not operative provisions of the Code and are not intended to and shall not be enforced independently as such.
- 1.5 The purpose of this Code is:
- (a) to set out clear expectations of the behaviour of Members in accordance with the principles of the Code;
 - (b) to provide information to the public as to the behaviour they can expect from their Members;
 - (c) to provide guidance to Members in the conduct of their duties a selected officials; and

- (d) to provide a mechanism for responding to alleged breaches of the Code.

1.6 These standards and expectations should serve to enhance the public's confidence that the elected officials of the Town will operate with integrity and fairness to ensure responsible and accountable conduct by the Member.

2. Definitions

2.1 In this Code:

- (a) "application" means a written request for an investigation with respect to an alleged contravention of the Municipal Conflict of Interest Act;
- (b) "Clerk" means the Clerk of the Town or his/her designate;
- (c) "Code" means the "Code of Conduct for Members Council and Local Boards" as established by Council pursuant to section 223.2 of the Municipal Act, 2001;
- (d) "complainant" means a person who has filed a complaint in accordance with this Code or a person who has applied for an investigation by the Integrity Commissioner of an alleged contravention of the Municipal Conflict of Interest Act;
- (e) "complaint" means a written complaint filed with the Integrity Commissioner that a Member has contravened the Code or an application filed pursuant to section 223.4.1 of the Municipal Act, 2001 that a Member has contravened section 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act, as the case may be;
- (f) "confidential information" means information or records:
 - (i) that are in the possession, in the custody or under the control of the Town that the Town is either precluded from disclosing under the Municipal Act, 2001 or other applicable legislation, its procedural by-law or any of its other by-laws, policies, rules or procedures,
 - (ii) that it is required to refuse to disclose under the Municipal Freedom of Information and Protection of Privacy Act or other legislation, and
 - (iii) arising from any closed meetings;
- (g) "Conflict of Interest" means a situation in which a Member has competing interests or loyalties between the Member's personal or private interests and

his or her public interests as an elected representative such that it might influence his or her decision in a particular matter;

- (h) “Council” means the Council of the Town and includes, as the context may require and with all necessary modifications, any of the Town’s Local Boards;
- (i) “gift” means any kind of benefit contribution or cash, fees, admission fees, advances, vouchers, invitations, objects of value, services, offers, personal benefits, travel and accommodation or entertainment that are provided to or received by a Member, that could be seen to be connected directly or indirectly to the performance of the Member’s duties;
- (j) “harassment” or “harass” involves engaging in behaviour, conduct or comment by a Member that is directed at another individual, whether it occurs inside or outside the work environment, that is or ought reasonably to be known to be unwelcome. It includes but is not limited to something which is offensive to another person:
 - (i) on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status, as well as any other grounds under the provisions of the Human Rights Code; or
 - (ii) which is reasonably perceived by the recipient as an intention to bully, embarrass, intimidate, or ridicule the recipient;
- (k) “Integrity Commissioner” means the person appointed by Council pursuant to subsection 223.3(1) of the Municipal Act, 2001;
- (l) “Local Board” is hereby defined as in subsection 1(1) and section 223.1 of the Municipal Act, 2001;
- (m) “meeting” means any legally-constituted meeting of Council or a Local Board;
- (n) “Member” means a member of Council, including the Mayor, and a member of a Local Board;
- (o) “municipal property” includes, but is not limited to, all real and personal property, facilities, vehicles, equipment, supplies, services, staff, documents, intellectual property, computer programs, or technological innovations belonging to the Town;



- (p) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (q) “pecuniary” means relating to or consisting of money or having financial, economic or monetary value;
- (r) “social media” refers to freely accessible, third-party hosted, interactive internet technologies used to produce, post and interact through text, images, video, and audio to inform, share, promote, collaborate or network. A non-exhaustive list of examples of social media include Facebook, X, Snapchat, YouTube, and LinkedIn;
- (s) “Staff” includes anyone employed by the Town including full-time, part-time, temporary or seasonal staff, contract staff, students, and volunteers (in accordance with the Municipal Act, 2001, Members are not employees of the Town); and
- (t) “Town” means The Corporation of the Town of Grimsby.

3. Application and Compliance with the Code of Conduct

- 3.1 This Code applies to all Members of Council and, unless specifically indicated otherwise and with all necessary modifications, to all members of the Town’s Local Boards.
- 3.2 While this Code to members of the Town’s Local Boards it is recognized that such members do not hold elected office nor do they represent the Town in general and at all times.
- 3.3 A Member shall:
 - (a) observe and comply with every provision of this Code, as well as all other policies and procedures adopted or established by Council affecting the Member, acting in his or her capacity as a Member;
 - (b) respect the integrity of the Code and all inquiries and investigations conducted under it and pursuant to the Municipal Conflict of Interest Act; and

- (c) co-operate in every way possible in securing compliance with the application and enforcement of the Code and the Municipal Conflict of Interest Act.

3.4 No Member shall:

- (a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person;
- (b) obstruct the Integrity Commissioner, or any other person involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective; or
- (c) use the influence of their office for any purpose other than for the lawful exercise of their official duties for municipal purposes.

4. Conduct of Members

4.1 In all respects, Members shall:

- (a) always act civilly, respectfully and professionally when dealing with or communicating with any persons, including a member of the public and other Members;
- (b) respect the individual rights, values, beliefs and personality traits of any other person;
- (c) refrain from making statements the Member knows, or ought reasonably to know, to be false or with the intent to mislead Council or the public;
- (d) make it clear that he or she is expressing a personal opinion when expressing disagreement with a decision of Council; and
- (e) refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

5. Access to Information and Confidentiality

5.1 A Member shall:

- (a) only be entitled to have access to information in the possession of the Town that is relevant to matters before Council or a Committee or that is relevant to his or her role as a Member of Council. Otherwise, they shall have the same access rights to information as any member of the public; and

- (b) have a continuing obligation to keep information confidential, even if the Member ceases to be a Member.

5.2 No Member shall:

- (a) obtain access, or attempt to gain access, to confidential information in the custody or control of the Town except in accordance with the Municipal Freedom of Information and Protection of Privacy Act;
- (b) disclose, release or publish by any means, including social media any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
- (c) provide to any other person to disclose, release, or publish any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
- (d) use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body; or
- (f) disclose or discuss, through written, electronic or verbal communication, to any individual or corporate third party, any information that has been or will be discussed at a closed session meeting of Council or a Committee until such time that Council or a Committee has determined or has been advised by staff that the matter, or any part of the matter, can be made public subject to review by the head or designate under the Municipal Freedom of Information and Protection of Privacy Act or if directed to do so by a court.

6. Staff Relations

- 6.1 Members acknowledge that only Council as a whole and no single Member, including the Mayor, has the authority to direct staff, approve budgets, policy, and other such matters, unless specifically authorized by Council.

6.2 A Member shall:

- (a) respect the professional competence of staff and acknowledge that staff is required to provide objective advice while remaining neutral, carry out directions of council as a whole, and administer the policies of the Town without undue influence from any Member;
- (b) respect the administrative structure (“chain of command”) and direct any of the Staff performance concerns through the Chief Administrative Officer as

the person responsible for the general control and management of the affairs of the Town; and

- (c) comply with Town By-law 19-18: A By-law - a Council-Staff partnership and relationship policy.

6.3 No Member shall:

- (a) maliciously or falsely impugn, or without sufficient cause criticize, the professional or ethical reputation of any staff;
- (b) compel staff to engage in partisan political activities, or subject staff to threat or discrimination for refusing to engage in such activities; or
- (c) use their authority or influence to threaten, intimidate, or coerce staff or interfere with the lawful exercise of the duties of staff or the professional or legal obligations of staff.

7. Gifts

7.1 No Member shall accept a gift that is connected directly or indirectly with the performance of their duties unless authorized by one of the exceptions below. For these purposes, a gift to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly with the performance of the Member's duties of office is deemed to be a gift to that Member.

7.2 Notwithstanding Section 7.1, the following exceptions are applicable:

- (a) gifts received as an incident of protocol or social obligation that normally accompany the responsibilities of elected office;
- (b) gifts that are not connected directly or indirectly with the performance or duties of office;
- (c) compensation authorized by law;
- (d) a reimbursement of reasonable expenses incurred in the performance of activities connected with a legitimate municipal purpose;
- (e) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- (f) services provided without compensation by persons volunteering their time;
- (g) a suitable memento of a function with nominal value, honouring the Member or the Town; provincial, regional and local governments or political subdivisions of food, lodging, transportation and entertainment provided by

them, and by the federal government or the government of a foreign country;
and

- (h) food, beverages and/or admission fees provided by banquets, receptions or similar events if attendance is the result of protocol or social obligation consistent with the responsibilities of office, and the person extending the invitation has done so infrequently and that person or a representative of the organization is in attendance.

7.3 A Member who has received and accepted a gift or benefit pursuant to Section 8.2 shall file a disclosure of the gift or benefit indicating the person, body or entity from which it was received together with the estimated value of the gift or benefit. The list shall be provided to the Town Clerk within 30 days of receiving the gift and shall be a matter of public record and posted to the Town's website.

7.4 A Member shall not seek or obtain by reason of his or her office any personal privilege or advantage with respect to municipal services not otherwise available to the general public and not connected directly or indirectly to the performance of the Member's duties.

8. Use of Municipal Property

8.1 A Member shall:

- (a) only use municipal property for activities relevant to their role as a Member;
and
- (b) not obtain any personal financial gain or advantage from the use of municipal property.

9. Political Activity

9.1 Members may not use municipal property for any type of political activity during a municipal election and at any other time, including promoting or opposing the candidacy of any person to elected office in any municipal, provincial and federal campaign.

10. Harassment

10.1 A Member shall not harass any other Member, Staff, or a member of the public.

10.2 A Member shall strictly observe and comply with any workplace harassment and workplace violence policies of the Town.

11. Respect for the Town and its By-Laws, Policies & Procedures

11.1 A Member shall:

- (a) encourage the public, prospective contractors and members of the public, and their colleagues to abide by the Town's by-laws, policies and procedures, including this Code; and
- (b) accurately communicate the decisions of Council even if they disagree with the majority decision of Council, and by so doing affirm the respect and integrity in the decision-making processes of Council.

12. Social Media

12.1 A Member shall:

- (a) adhere to any and all Town policies and guidelines, regarding social media use; and
- (b) always identify themselves without any attempt to cover, disguise or mislead as to their identity or status as an elected representative of the Town when using social media.

12.2 No Member shall use social media to publish anything that is dishonest, untrue, offensive, disrespectful, constitutes harassment, or is defamatory or misleading in any way.

12.3 Personal social media accounts are captured by the Code. Anything posted or shared which is publicly accessible (i.e., accessible to any member of the public, staff, or another member of Council, including private messages) through a Councillor's private or public social media account is subject to the Code of Conduct.

13. Conflicts of Interest

13.1 A Member is required to comply with the requirements of the Municipal Conflict of Interest Act with respect to obligations relating to pecuniary interests. A contravention of the Municipal Conflict of Interest Act by a Member shall not constitute a breach of the Code but may be enforced in accordance with the provisions of the statute and section 223.4.1 of the *Municipal Act, 2001*.

13.2 A Member shall also avoid any conflict of interest that is a non-pecuniary interest in order to maintain public confidence in the Municipality and its local boards. If a Member has a non-pecuniary interest, the Member shall declare the non-pecuniary interest and then leave the meeting at which the matter is being considered. Under no circumstance shall the Member participate in any discussion or vote on the matter or attempt to influence the voting on the matter in any way, before during or

after the meeting. For clarity, a Member having a non-pecuniary interest is not entitled to remain at the meeting and to abstain from voting, thus having their abstention recorded as a negative vote.

14. Council Policies and Procedures

- 14.1 A Member shall observe and strictly adhere to any policies, procedures and rules enacted and/or established from time to time by Council.

15. Investigations

- 15.1 If a member of the public or Staff has reasonable grounds to believe a Member has contravened the Code, they should submit a written complaint in accordance with the Complaint Protocol set out in Appendix "A".
- 15.2 If an elector or a person demonstrably acting in the public interest has reasonable grounds to believe a Member has contravened section 5, 5.1, or 5.2 of the Municipal Conflict of Interest Act, they should submit a written complaint in accordance with the Complaint Protocol set out in Appendix "A".

16. Penalties for Non-Compliance with the Code of Conduct

- 16.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code by a Member, Council may impose the following penalties on the Member:
- (a) a reprimand; and/or
 - (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to ninety (90) days.
- 16.2 In the case of a Local Board, if the Council has not imposed either of the penalties set out in Section 18.1 on its Member, the Integrity Commissioner may report to the local board that, in his or her opinion, the Member has contravened the Code in which case the local board may impose the penalties set out in Section 18.1.

17. Remedial Measures or Corrective Actions

- 17.1 Council may, on the basis of a recommendation from the Integrity Commissioner, take any or all of the following corrective actions or remedial measures, in addition to or as alternative(s) to the penalties in section 16.1, and require that the Member:
- (a) provide a written or verbal apology;
 - (b) return improperly received property or make reimbursement of its value or of money spent;

- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council; and
- (e) comply with any other remedial measure or corrective action deemed appropriate by the Integrity Commissioner.

17.2 In the case of a Local Board, if the Council has not any remedial or corrective actions under Section 19.1, the Local Board may, to the extent it is authorized at law, impose such remedial measures or corrective actions as are set out in Section 18.1(a)-(e).

18. Legal Fees

18.1 A Member is entitled to seek the advice of the Integrity Commissioner with respect to their *own* obligations under the Code of Conduct, any ethical procedure, policy or rule, and the *Municipal Conflict of Interest Act*. As such, a Member is solely responsible for their own legal costs if they retain a lawyer or paralegal to provide legal counsel, advice or representation on any matter related to the Code of Conduct, any ethical procedure, policy or rule, and the *Municipal Conflict of Interest Act*, including, but not limited to, an investigation and the imposition of penalties or remedial measures or corrective actions recommended by the Integrity Commissioner or as imposed by Council, a complaint to the Ontario Ombudsman or a judicial review application to the courts from a decision based on a report and recommendations from the Integrity Commissioner, or any other proceeding related to the Integrity Commissioner.

19. Repeal and Enactment

19.1 The Corporation of the Town of Grimsby Consolidated Code of Conduct By-law 20-74 be hereby amended.

19.2 That the short title of this by-law is the “Code of Conduct.”

19.3 This by-law shall come into full force and effect on the date of its enactment.

Read a first, second and third time and finally passed this 9th day of September, 2024.

J.A. Jordan, Mayor

V. Steele, Town Clerk

APPENDIX “A”

CODE OF CONDUCT COMPLAINT PROTOCOL FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:
 - (a) document the incident(s) where the Member may have contravened the Code including dates, times, locations, other persons present, and any other relevant information;
 - (b) advise another person about the concerns regarding the Member's actions for the purpose of corroborating the incident(s) or actions;
 - (c) directly advise the Member that the behaviour or activity appears to contravene the Code;
 - (d) identify to the Member the specific provision(s) of the Code that may have been contravened;
 - (e) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;
 - (f) if applicable:
 - (i) confirm to the Member that his or her response is satisfactory, or
 - (ii) advise the Member that his or her response is unsatisfactory;
 - (g) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
2. Individuals are encouraged to pursue the Informal Complaint Procedure as the first means of remedying the behaviour or activity of a Member that they believe contravenes the Code.
3. The Integrity Commissioner may be requested to assist in an attempt to settle or resolve the issue with the Member and the individual, but the Integrity Commissioner will participate only if both or all parties have consented to its participation.

4. The Informal Complaint Procedure is not a precondition or a prerequisite to pursuing the Formal Complaint Procedure related to the Code set out in Part B.

PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints

- 5.(1) Any individual who has reasonable grounds to believe that a Member has contravened a provision of the Code may file a formal complaint ("Complaint") to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code in accordance with the following requirements:
- (a) a Complaint shall be in writing on the prescribed form (Formal Complaint Form # 1 attached hereto) and shall be dated and signed by an identifiable individual ("the complainant");
 - (b) a Complaint must set out reasonable grounds for the allegation that the Member has contravened the Code and set out the evidence in support of the allegation.
- (2) Council 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.
- (3) An elector, as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest (collectively, "a complainant") may file a formal application requesting 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) an application (also referred to as a "Complaint" herein) shall be in writing on the prescribed form (Complaint Form # 2 attached hereto), dated and signed by an identifiable individual;
 - (b) the application shall include a statutory declaration attesting to the fact that:
 - (i) the complainant became aware of the contravention not more than six (6) weeks before the date of the application; or
 - (ii) in the case where 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*, that the complainant became aware of the alleged contravention during that period of time;
- (4) Council may also pass a resolution requesting the Integrity Commissioner to undertake an inquiry respecting an alleged contravention of section 5, 5.1, 5.2 or

5.3 of the *Municipal Conflict of Interest Act* by a Member and provide a statutory declaration as required by Section 5(2) to be sworn by a Member of Council.

- (5) Complainants who file a formal Complaint under Section 5 must provide a full and complete record of the evidence they purport to rely upon to substantiate or support the allegations set out in the Complaint to the Integrity Commissioner. The Integrity Commissioner is under no obligation whatsoever to, but may, seek additional information.

Filing of Complaint and Classification by Integrity Commissioner

- 6.(1) The Complaint may be filed with the Clerk by hard copy or by email at the following mailing or email addresses, who will provide a copy to the Integrity Commissioner:

Victoria Steele
Director of Legislative Services / Town Clerk
160 Livingston Avenue
Grimsby, ON L3M 0J5
Email: vsteele@grimsby.ca
Tel: 905.945-9634 x 2171

- (2) The fee to file a Complaint is \$200.00 payable in cash, debit or certified cheque to the Town. This fee will be refunded if the Integrity Commissioner deems the complaint warrants proceeding to the investigation stage.
- (3) The Integrity Commissioner shall initially review the Complaint to determine if the matter is, on its face, a Complaint with respect to a contravention of the Code and not covered by other legislation or other Council procedures, policies or rules as set out in Section 7 or whether it is a Complaint with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*.

Complaints Outside the Integrity Commissioner's Jurisdiction or Not for Investigation

- 7.(1) If the Complaint is not, on its face, a Complaint with respect to a contravention of the Code or the Complaint relates to matters addressed by other legislation under another procedure, policy or rule of the Town, or whether it is a Complaint with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall advise the complainant in writing as follows:

Criminal Matter

- (a) if the Complaint is, on its face, an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that the

complainant may pursue it with the appropriate police service if the complainant wishes to pursue any such allegation;

Municipal Freedom of Information and Protection of Privacy Act

- (b) if the Complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the Clerk to deal with under any access and privacy policies of the Town under that statute;

Other Procedure, Policy or Rule Applies

- (c) if the Complaint appears to fall within the scope of another procedure, policy or rule of the Town, the complainant shall be advised to pursue the matter under such procedure, policy or rule with the appropriate municipal official or staff member; and

Lack of Jurisdiction

- (d) if the Complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner (for example, it relates to a decision of Council as a whole and not one or more individual Members), the complainant shall be so advised and provided with any additional reasons and referrals, if any, as the Integrity Commissioner considers appropriate.
- (2) If it becomes apparent to the Integrity Commissioner at any time that the Complaint with respect to a contravention of the Code or with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*, relates to any of the following matters, the Integrity Commissioner shall advise the complainant in writing as follows:

Matter Already Pending

- (a) if the Complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, a human rights or workplace harassment complaint or similar process, or to a civil matter that is pending before the courts, the Integrity Commissioner may, in his/her sole discretion, suspend any investigation, in whole or in part, pending the result of the other process;

Similar Matter Already Pending

- (b) if the Complaint is in relation to a similar matter which is subject to an outstanding Complaint before the Integrity Commissioner, the Integrity Commissioner may, in his/her sole discretion, consider the matter in conjunction with the similar matter or deal with it separately, including not undertaking an inquiry if the matter can be adequately addressed in any report and/or recommendations made with respect to the Complaint in the similar matter; and

Other Ethical Code or Policy Applies

- (c) if the Complaint is in relation to a matter which is governed by a Code, ethical code or similar procedure or policy of another body or entity which also governs the Members (for example, another board, body or committee to which the Member has been appointed), the Integrity Commissioner shall consider the most appropriate forum for the Complaint and may, in his/her sole discretion, defer consideration of the matter pending any determination made by the other body or entity and shall so advise the complainant and, if necessary, the Member.
- (3) Nothing in Section 7 precludes the Integrity Commissioner from reporting to Council on any matter that is suspended, summarily dismissed, terminated or not otherwise investigated.

Limitation Period

- 8.(1) The Integrity Commissioner shall not accept a Complaint under the Code of Conduct for which the event giving rise to the Complaint occurred more than six (6) weeks after the complainant became aware of the alleged contravention, and no more than six months after the alleged violation.
- (2) The Integrity Commissioner shall not accept an application with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act* more than six (6) weeks after the complainant became aware of the alleged contravention except in accordance with the requirements of subsections 8(3)-(7) of that statute and section 223.4.1 of the *Municipal Act, 2001*.

Refusal to Conduct Investigation

9. The Integrity Commissioner always has a discretion as to whether to carry out an investigation. If the Integrity Commissioner is satisfied at any time, after considering the information contained in the Complaint, that the 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 for an investigation,
 - (e) does not warrant a full investigation, or
 - (f) is not otherwise in the public interest to investigate,

the Integrity Commissioner shall not be required to conduct an investigation and may summarily dismiss the Complaint, and, where this becomes apparent during the course of an investigation, the Integrity Commissioner may terminate the investigation and provide notice to the complainant and, if necessary, to the Member. The Integrity Commissioner is under no obligation to report the refusal to conduct an investigation to Council.

Opportunities for Resolution

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

Investigation

- 11.(1) The Integrity Commissioner may proceed as follows, except where the Integrity Commissioner has a full factual record and believes, in its 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:
 - (a) provide the Member with a copy of the Complaint which shall not disclose the identity of any third-party witnesses set out in the Complaint or persons that are to be questioned/interviewed by the Integrity Commissioner;
 - (b) request that the Member provide a written response to the allegations in the Complaint to the Integrity Commissioner within ten (10) calendar 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 ten (10) calendar days.
- (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 municipal work location relevant to the Complaint for the purpose of investigation and potential resolution.
- (3) If during the course of an investigation of a Complaint, the Integrity Commissioner discovers that the member may have committed another contravention of the Code, the Integrity Commissioner shall have the authority to investigate and report on that matter.

- (4) Preliminary findings or a draft of the proposed final report on the Complaint (without recommendations) shall be provided to a Member if the Integrity Commissioner considers that the Member may have contravened the Code and the Member shall have five (5) calendar days to make final submissions.
- (5) The Integrity Commissioner may, but is under no obligation, to provide the complainant with a draft of the proposed final report.
- (6) The Integrity Commissioner may make interim reports to Council where the Integrity Commissioner considers it necessary or required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the formal investigation, and may also disclose such information as is necessary in the Integrity Commissioner's opinion for the purposes of the interim report(s) or any final report(s).
- (7) The Integrity Commissioner is entitled to make such additional inquiries and provide such additional reports to Council where necessary and as required to address any instances of non-compliance with any decision of Council including the failure to comply with any penalties or remedial measures/corrective actions imposed by Council or on any matter that the Integrity Commissioner considers necessary.

No Complaint Prior to Municipal Election

- 12.(1) Notwithstanding any other provision of this Complaint Protocol, no Complaint may be filed with the Integrity Commissioner, nor shall any report shall be made by the Integrity Commissioner to Council during the period of time starting on nomination day for a regular municipal election year, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on the voting day in a regular election as set out in section 5 of the *Municipal Elections Act, 1996*.
- (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 of the same Complaint if within six (6) weeks after the voting day in a regular municipal election the individual who made the request makes a written request to the Integrity Commissioner in accordance with subsection 223.4(8) of the *Municipal Act, 2001*.

Advice Provided to Member by Integrity Commissioner

- 13.(1) Subject to Section 13(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code in any subsequent consideration of the conduct of the Member in the same matter

provided that the Member fully disclosed in writing all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.

- (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 section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*, 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 him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.
- (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 specific matter that the Integrity Commissioner is investigating or reviewing with respect to the Member, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of any investigation or review that may impact the Member's rights under the Code, the *Municipal Conflict of Interest Act* or generally at law.
- (4) If a Member under investigation by the Integrity Commissioner requests advice, such requests shall be delegated in writing to any person, other than another Member, that the Integrity Commissioner considers capable of providing informed advice to the Member.

Authority to Abridge or Extend

- 14.(1) Notwithstanding any timeline or time limit set out in the Code or this Complaint Protocol, the Integrity Commissioner shall retain the right to abridge or extend any timeline or time limit therein if the Integrity Commissioner considers it, in its sole discretion, to be in the public interest to do so.

Investigation Report

- 15.(1) The Integrity Commissioner shall seek, but is not obligated, to complete an investigation within ninety (90) days following: (i) the official receipt of any Complaint under the Code; and (ii) any additional clarification or information necessary to complete the Complaint, whichever is later.
- (2) Where the Complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended penalties / remedial measures or corrective actions. Anonymity of non-Council complainants (i.e. public and staff) will be maintained in public reports to Council.

- (3) A Member shall have the right to address the recommendations in a report that has made a finding of a contravention of the Code by the Member when the report is considered by Council. The Member themselves may participate in the discussion of the recommendations but may not vote on the matter. A Member is not entitled to challenge, contest or question the findings of an Integrity Commissioner's report to Council.
- (4) Council shall consider the Integrity Commissioner's report and the recommendations, if any, and make a decision on the imposition of recommended penalties or any remedial measures or corrective actions. Council's role is adjudicative, not investigatory and, accordingly, Members of Council are not entitled to challenge, contest or question the findings of an Integrity Commissioner's report to Council.
- (5) Where the Complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings but may do so at its discretion and may also include such information as it deems necessary in a report or as part of an annual or other periodic report by the Integrity Commissioner.
- (6) The Integrity Commissioner shall complete the investigation under the *Municipal Conflict of Interest Act* no later than one hundred and eighty (180) days after the official receipt of any application validly made under Sections 5(3) or (4) of this Part.

Findings

16.(1) If the Integrity Commissioner determines that:

- (a) there has been no contravention of the Code, or section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*, or
- (b) a contravention occurred but:
 - (i) the Member took all reasonable measures to prevent it, including having sought and followed the advice of the Integrity Commissioner,
 - (ii) it was trivial,
 - (iii) it was committed through inadvertence, or
 - (iv) it resulted from an error in judgment 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 and no imposition of remedial measures or corrective actions.



- (2) If the Integrity Commissioner:
- (a) considers it appropriate, once the investigation under Section 5(3) or (4) has concluded, to 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, 5.2 or 5.3 of that statute; or
 - (b) does not proceed with an application to the judge,
- the complainant and the Member shall be advised in writing.
- (3) The Integrity Commissioner shall provide a written report to Council providing the reasons for its decision under Section 16(2).

Report to Council

- 17.(1) Upon receipt of a report from the Integrity Commissioner with respect to the Code, the Clerk shall place the report on the next regular agenda of Council for consideration by Council at that meeting.
- (2) 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 before its next regular meeting to consider the report.

Duty of Council

18. Council shall consider and make a determination on the Integrity Commissioner's recommendations in a report under Section 17 at the same meeting at which the report is listed on the agenda in a session that is open to the public. Council shall not defer consideration of the report or its determination with respect to the recommendations to another meeting.

Confidentiality and Public Disclosure

19. (1) In order to maintain the integrity of any process of inquiry or investigation, every person interacting with the Integrity Commissioner, including the complainant, the Member, any witness or any other person, shall preserve confidentiality with respect to all matters and shall not disclose any information related to the investigation to any other person unless so authorized by the Integrity Commissioner. A breach of this provision by the complainant may result in a termination of the Complaint.
- (2) The Integrity Commissioner shall retain all records related to the Complaint and investigation although copies may be provided to the Town's administrative staff, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.

- (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. The identity of the complainant and of any other person, including any witnesses, will remain confidential but may be disclosed if deemed appropriate or necessary by the Integrity Commissioner, if consented to by the complainant or any other person, or if such information has already been demonstrably publicly disclosed or by court order.
- (4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Clerk and are published via the meeting agenda in which they are considered.

Delegation by Integrity Commissioner

- 20. 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*.



Code – Formal Complaint Form #1
AFFIDAVIT

I, _____ (*first and last name*),
of the _____ in the Province of
Ontario.

MAKE OATH AND SAY (or AFFIRM):

1. I reside at: _____

Telephone: _____ Email: _____

2. I have reasonable grounds to believe that:

Name of Member(s)

Name of Board (if applicable)

What provision(s) of the Code do you believe were contravened?

[*Set out all provision(s) alleged to have been contravened.*]

3. The detailed reasons why I have reasonable grounds to believe the Member has
contravened the Code are as follows:

[*Set out detailed reasons on additional pages if necessary*]

[*Specify which actions or incidents relate to which provisions of the Code*]

I have attached supporting records and/or additional pages: ☐ Yes ☐ No

I also intend to file an application for an inquiry regarding a possible contravention of the
Municipal Conflict of Interest Act in relation to this matter: ☐ Yes ☐ No



This declaration is made for the purpose of requesting that this matter be investigated by the Integrity Commissioner and for no other purpose.

DECLARED before me at _____)
the _____ of _____)
on _____ (date))



COMMISSIONER STAMP

Applicant Signature

A Commissioner for Taking Affidavits
etc. Signature

Suggestions

- Complainants should review the full text of the Code of Conduct or relevant legislation.
- Complainants should review the Town's Complaint Protocol and may contact the Integrity Commissioner with questions about the process or procedure before filing.

The personal information on this form is collected under authority of the *Municipal Act, 2001*.



Municipal Conflict of Interest Act – Complaint Form # 2
STATUTORY DECLARATION

I, _____ (*first and last name*), of the
_____ in the Province of Ontario.

I SOLEMNLY DECLARE THAT:

1. I reside at: _____

Telephone: _____ Email: _____

2. I have reasonable and probable grounds to believe that _____
(*name of Member*) has contravened the following section(s) of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50:

- ☐ Section 5 Participated in the discussions and/or voted about a matter in which the Member has a direct or indirect pecuniary interest.
- ☐ Section 5.1 Failed to file a written statement of a declared pecuniary interest.
- ☐ Section 5.2 Used their office to attempt to influence a decision or recommendation of an officer or employee of the municipality and/or the board about a matter in which the Member has a direct or indirect pecuniary interest.

3. I am:

- ☐ an Elector
- ☐ a Person Demonstrably Acting in the Public Interest as set out in Exhibit "A"

4. I became aware of the facts constituting the alleged contravention not more than six (6) weeks ago.

5. The facts constituting the alleged contravention are set out in Exhibit "B" together with all applicable supporting materials, documents and records.

This declaration is made for the purpose of requesting that this matter be investigated by the Integrity Commissioner and for no other purpose.

DECLARED before me at _____)
the _____ of _____)
on _____ (*date*))

Applicant Signature

A Commissioner for Taking Affidavits etc.
Signature

COMMISSIONER STAMP



Exhibit "A"

Applicant Status



Exhibit "B"

Supporting Evidence