

BY-LAW NUMBER 24 OF 2020
OF THE CITY OF SARNIA

"A By-Law to Establish a Code of Conduct for Council"

(Re: Council Code of Conduct)

WHEREAS Section 223.2 (1) of the *Municipal Act, 2001*, requires the municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality;

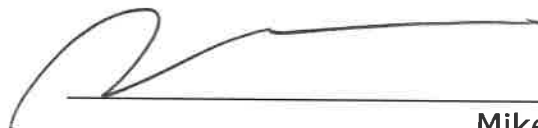
AND WHEREAS Council may, by by-law, govern the conduct of its members;

AND WHEREAS Council deems it expedient to pass such a bylaw;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF SARNIA ENACTS AS FOLLOWS:

1. The Accountability Framework for Council and Local Boards is hereby adopted in the general form attached to this By-Law.
2. By-Law 139 of 2016 of the City of Sarnia is hereby repealed.

By-Law Read a First, Second and Third time this 2 day of March 2020


Mike Bradley
Mayor


Dianne Gould-Brown
City Clerk

City of Sarnia
Accountability Framework for Council and Local Boards

**PART I: CODE OF CONDUCT FOR MEMBERS OF COUNCIL
AND LOCAL BOARDS**

1.0 Policy Statement

- 1.1 The Code of Conduct reinforces the City of Sarnia's Accountability and Transparency Policy and other relevant legislation within which all members of Council and local boards must operate. The Code of Conduct establishes a general standard for acceptable conduct to which all Members are expected to adhere to and comply with.
- 1.2 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and an enhanced level of public confidence in the administration of the City by its Members as duly elected public representatives to ensure that they each operate from a foundation of integrity, justice, truth, honesty and courtesy.

2.0 Key Principles

- 2.1 The key principles that underline the Code of Conduct are as follows:
- All Members to whom this Code of Conduct applies shall serve and be seen to serve their constituents in a conscientious and diligent manner;
 - Members shall be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of

interest, both pecuniary and non-pecuniary;

- Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;
- Members are responsible for making honest statements and no Member shall make a statement when they know that statement is false, or with the intent to mislead other Members or the public; and
- Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature and Sarnia City Council.

The above statements are key principles that are intended to facilitate an understanding, application and interpretation of the Code of Conduct – the principles are *not* operative provisions of the Code of Conduct and are not intended to be enforced independently as such.

3.0 Legislation Concerning Conduct

3.1 This Code of Conduct operates along with and as a supplement to the existing statutes governing conduct. The following federal and provincial legislation also govern the conduct of members of Council and local boards, including:

- *Criminal Code;*
- *Municipal Conflict of Interest Act;*

- *Municipal Elections Act, 1996;*
- *Municipal Freedom of Information and Protection of Privacy Act;*
- *Municipal Act, 2001;*
- *Human Rights Code; and*
- *Occupational Health and Safety Act.*

4.0 Definitions

"City" – shall mean The Corporation of the City of Sarnia.

"Code of Conduct" - shall mean the City of Sarnia Code of Conduct for Members of Council and Local Boards.

"Complaint" - shall mean a purported contravention of the Code of Conduct.

"day" or *"days"* - shall mean calendar day or days.

"Frivolous" - shall mean of little or no weight, worth, or importance; not worthy of serious notice.

"Good Faith" - shall mean accordance with standards of honesty, trust and sincerity.

"Integrity Commissioner" - shall mean the Integrity Commissioner appointed by the Council of the City of Sarnia to provide independent and consistent complaint investigation and resolution, respecting the application of the Code of Conduct.

"Immediate Relative" - shall mean a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law as well as step-relationships; spouse shall mean the person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage.

"Member" - shall mean a member of Council or a member of a local board of the City, as may be applicable in the particular context and with all necessary modifications.

"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. A Member is not considered to have a non-pecuniary interest or a private advantage in a matter where the matter is of general application or considered to be an interest in common generally with the electors within the jurisdiction of an area.

"Vexatious" - shall mean instituted without sufficient grounds and serving only to cause annoyance to the defendant; troublesome; annoying.

5.0 Application

5.1 The Code of Conduct shall apply to all members of Council and, with necessary modifications, to members of the City's local boards.

6.0 Business Relations

- 6.1 No Member shall act as a paid agent before Council, its committees, or an agency, board or commission of the City except in compliance with the terms of *the Municipal Conflict of Interest Act*. A Member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit. For greater certainty, this section does not prohibit activities in which a Member would normally engage on behalf of constituents in accordance with the duties of their office.

7.0 Conduct at Meetings

- 7.1 At all meetings, Members shall conduct themselves with decorum in accordance with the provisions of The City of Sarnia Procedure By-Law. Respect for delegations, fellow Members and staff requires that all Members show courtesy and not distract from the business of the City during presentations and when other Members have the floor.

8.0 Election Activity

- 8.1 No Member shall use City facilities, equipment, supplies, services, or property for their election or re-election campaign. No Member shall undertake campaign-related activities on City property. No Member shall use the services of City employees for their election or re-election campaign, during hours in which the employees are in the paid employment of the City.

9.0 Conduct Respecting Staff

- 9.1 Employees serve Council and work for the municipal corporation under the direction of the City Manager. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Only Council as a whole and no single Member has the authority to direct staff, approve budget, policy, committee processes and other such matters, unless specifically authorized by Council. Members have no individual capacity to direct members of staff to carry out particular functions. Inquiries of staff from Members should be directed to the City Manager or the appropriate senior staff as directed by the City Manager.
- 9.2 Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council. Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the City.
- 9.3 Members voicing their personal opinion on a matter, either within or outside of Council Chambers, shall not use indecent, abusive or insulting words, phrases or expressions about staff or other Members. Press releases, interviews, social media, and any other communications with the media and the public shall focus on policies and initiatives, not individuals. Members shall accurately communicate the ideas in reports as well as decisions of Council even if they disagree with the report or the decision.

- 9.4 Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. Similarly, employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed in their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence employees in the performance of such duties and obligations.
- 9.5 Certain employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.
- 9.6 No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. No Member shall use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

10.0 Conduct while Representing the City

- 10.1 Members shall make every effort to participate diligently in the activities of the agencies, boards, and committees to which they are appointed.

11.0 Confidential Information

- 11.1 Pursuant to section 239 of *the Municipal Act, 2001*, where a matter discussed at a closed meeting remains confidential, no Member shall disclose the content of any confidential information, or the subject of deliberations, of a closed meeting, unless authorized by Council or as required by law.
- 11.2 Members shall not disclose, use or release confidential information in contravention of applicable privacy laws, including the *Municipal Freedom of Information and Protection of Privacy Act*. Members are only entitled to information in the possession of the City that is relevant to matters before the Council or a committee. Otherwise, Members enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen.
- 11.3 Requests for information will be referred to appropriate staff to be addressed as either an informal request for access to municipal records, or as a formal request under *the Municipal Freedom of Information and Protection of Privacy Act*.
- 11.4 Members shall not disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office, except when required to do so by law, even if the Member ceases to be a Member.
- 11.5 A Member shall not misuse confidential information in any way or manner such that it may cause detriment to the City, Council or any other person, or for financial gain for themselves or others.

11.6 Examples of the types of information for which Members should exercise particular care in ensuring confidentiality is maintained include but are not limited to the following:

- a) information related to the security of municipal property;
- b) personal matters about an identifiable individual, including municipal or local board employees;
- c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- d) labour relations or employee negotiations;
- e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
- h) items under negotiation, or personnel matters;
- i) information that infringes on the rights of others (i.e. sources of complaints where the identity of a complainant is given in confidence);
- j) price schedules in contract tenders or Request for Proposal submissions if so specified;

- k) information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*;
- l) statistical data required by law not to be released (i.e. certain census or assessment data); and
- m) any and all information that has been provided in confidence.

12.0 Discrimination and Harassment

- 12.1 Members have a duty to treat members of the public, one another and staff with respect and without abuse, bullying, coercion or intimidation and to ensure that their work environment is free from discrimination and harassment.
- 12.2 A Member shall not use any words, phrases, expressions or behave in a way that is indecent, abusive or insulting toward any member of the public, another Member or staff. A Member shall not make comments or conduct themselves in any manner that is discriminatory to any individual on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, disability, sexual orientation, marital status, or family status and any other grounds identified under the Ontario *Human Rights Code*.
- 12.3 Members must comply with the City's Workplace Harassment Policy, Policy J-01 and the Ontario *Human Rights Code*.

13.0 Council Policies and Procedures

13.1 A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Sarnia City Council. Members are required to observe the terms of all policies and procedures established by Council. However, this provision does not prevent a Member from requesting that Council grant an exemption from a policy, other than this Code of Conduct.

14.0 Gifts and Benefits

14.1 No Member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of their duties of office, unless permitted by one of the following exceptions:

- a) compensation authorized by by-law;
- b) gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c) a political contribution otherwise reported by law;
- d) services provided without compensation by persons volunteering their time;
- e) a suitable memento of a function honouring the Member;
- f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them; and, by the Federal government or the government of a foreign country;

- g) food, beverages and/or admission fees provided for banquets, receptions or similar events, if:
 - i. attendance is resultant to protocol or social obligations that accompanies the responsibility of office, and
 - ii. the person extending the invitation or a representative of the organization is in attendance;
- h) communication to the offices of a Member, including subscriptions to newspapers and periodicals.

Notwithstanding these exceptions, no Member shall accept monies or any instrument that can be converted into monies unless authorized by law. For these purposes, a fee or advance paid to, or a gift or benefit provided by a third party with the Member's knowledge to a Member's spouse, child (who is under the age of 18 years), is deemed to be a gift to that Member.

14.2 In the case where one of the exceptions in Sections 14.1(b), (e), (f), (g) or (h) applies, if the value of the gift or benefit exceeds \$200, or if the total value received from any one source over any twelve (12) month period exceeds \$200, the Member shall within thirty (30) days of receipt of the gift or reaching the annual limit, file a disclosure statement with the City Clerk. All disclosure statements shall be a matter of public record. The disclosure statement must indicate:

- a) the nature of the gift or benefit;
- b) its source and date of receipt;

- c) the circumstances under which it was given or received;
- d) its estimated value;
- e) what the recipient intends to do with the gift; and
- f) whether any gift will at any point be left with the City.

15.0 Improper Use of Influence

- 15.1 No Member shall use the influence of their office for any purpose other than for the exercise of their official duties.
- 15.2 A Member shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their immediate relatives, staff members, friends or associates, business or otherwise.
- 15.3 No Member shall, in the exercise of an official power, duty or function, give any form of preferential treatment to any person or entity based solely on the identity of the person or entity, or grant any special consideration or advantage in matters related to their position to any person or entity beyond that which is available to any other person.
- 15.4 No Member shall hold out the prospect or promise of future advantage through a member's supposed influence in return for present actions or inaction.
- 15.5 No Member shall seek or obtain by reason of their office any personal privilege or private advantage with respect to City services not otherwise available to the general public and not consequent to their official duties.

- 15.6 No Member shall use for personal purposes any City property, equipment, services, supplies or services of consequence other than for purposes connected with the discharge of City duties or associated community activities of which City Council has been advised.
- 15.7 No Member shall use information gained in the execution of their duties that is not available to the general public for any purposes other than their official duties.
- 15.8 No Member shall obtain financial gain from the use of City 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 City of Sarnia.

16.0 Integrity Commissioner Recommendations

Penalties

- 16.1 Council may impose the following penalties on a Member if the Integrity Commissioner reports that, in their opinion, there has been a violation of the Code of Conduct by the Member:
- a) a reprimand,
 - b) suspension of the remuneration paid to the Member in respect of their services as a member of Council or local board, as the case may be, for a period of up to ninety (90) days.

Remedial or Corrective Measures

16.2 Any recommended remedial or corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.

16.3 The Integrity Commissioner may recommend any or all of the following remedial or corrective actions:

- a) remove or not appoint the Member to the membership from an advisory committee or local board;
- b) remove or not appoint the Member as chair of a committee or local board;
- c) the Member repay or reimburse monies received;
- d) the Member return property or reimburse of its value;
- e) require the Member to provide a written or verbal apology to Council, the complainant, or both; and
- f) require the Member to comply with any other remedial or corrective action or measure deemed appropriate by the Integrity Commissioner.

17.0 Integrity Commissioner

17.1 Pursuant to section 233.3 of *the Municipal Act, 2001*, the City shall appoint an Integrity Commissioner who reports to Council and is responsible for performing the following duties in an independent and consistent manner:

- a) Complaint Investigation: assess and investigate formal written complaints of alleged contraventions of the Code of Conduct and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*;
- b) Complaint Adjudication and Reporting (Code of Conduct): determine whether a Member has violated the Code of Conduct and report to Council with recommended penalties or remedial or corrective measures;
- c) Complaint Adjudication and Reporting (*Municipal Conflict of Interest Act*): determine whether it is appropriate to apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether a Member has contravened section 5, 5.1 or 5.2 of that Act;
- d) Annual Reporting: provide Council, through the City Clerk, with an annual report on findings of complaint cases and such other matters that the Integrity Commissioner considers appropriate; and
- e) Advice to individual Members or to Council or local board: provide written advice to Council, to a local board or to any Member who submits a written request for advice respecting their obligations under a procedure, rule or policy of the City or of the local board, as the case may be, governing the ethical behaviour of members, their obligations under the Code of Conduct or their obligations under sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*;

- f) Educational Information: provide educational information to Members, the City and the public about the Code of Conduct and the *Municipal Conflict of Interest Act*.

17.2 Any written advice given by the Integrity Commissioner in respect of the Code of Conduct to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all relevant facts known to the Member are disclosed to the Integrity Commissioner and the Member acts in accordance with the written advice provided by the Integrity Commissioner.

17.3 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 or 5.2 of the *Municipal Conflict of Interest Act*, the Member is entitled to advise the judge of any written advice given by the Integrity Commissioner as long as all relevant facts known to the Member are disclosed to the Integrity Commissioner and the Member acts in accordance with the written advice provided by the Integrity Commissioner.

17.4 Should the office of Integrity Commissioner become vacant, the Code of Conduct remains in effect and all Members shall abide by the provisions set out therein. When a vacancy occurs, all formal complaints shall be held in abeyance until such time as a new Integrity Commissioner has been appointed, or an interim measure has been enacted, such as engaging the services of an Integrity Commissioner from another municipality.

PART II – COMPLAINT PROCEDURES FOR CODE OF CONDUCT AND MUNICIPAL CONFLICT OF INTEREST ACT

18.0 Informal Complaint Procedure

18.1 Individuals (for example, municipal employees, members of the public, members of Council or local boards) or organizations, who have identified or witnessed behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:

- a) advise the Member that their behaviour or activity appears to contravene the Code of Conduct;
- b) encourage the Member to stop the prohibited behaviour or activity;
- c) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- d) if applicable, confirm to the Member that you are satisfied with the response you received; or advise the Member of your dissatisfaction with the response;
- e) consider the need to pursue the matter in accordance with the formal complaint procedure, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

18.2 Individuals and organizations are encouraged to initially pursue this Informal Complaint Procedure as a means of stopping and remedying a behaviour or activity that they believe contravenes the Code of Conduct. A person is not required to undertake the Informal Complaint Procedure prior to pursuing the Formal Complaint Procedure.

19.0 Formal Complaint Procedure

Formal Complaints

19.1 (1) Any individual who identifies or witnesses behaviour or activity by a Member that they reasonably believe contravenes the Code of Conduct may file a formal complaint to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code of Conduct in accordance with the following requirements:

- (a) all complaints shall be in writing on the prescribed form (Formal Complaint Procedure Affidavit - Form #1) and shall be dated and signed by an identifiable individual (which includes the authorized signing officer of an organization);
- (b) the complaint shall set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a supporting sworn affidavit that sets out the evidence in support of the allegation; and

- (c) Council or a local board may also file a complaint against any of its Members of an alleged contravention of the Code of Conduct by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.

(2) 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 request that the Integrity Commissioner carry out an inquiry concerning an alleged contravention of section 5, 5.1 or 5.2 of that Act by a Member in accordance with the following requirements:

- (a) all requests (also referred to as "complaints") shall be in writing on the prescribed form (Formal Complaint Procedure Affidavit - Form #2) dated and signed by an identifiable individual;
- (b) the request shall include a statutory declaration attesting to the fact that:
 - (i) the complainant became aware of the contravention not more than six (6) weeks before the date of the complaint, 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;

(c) Council may also pass a resolution requesting the Integrity Commissioner to undertake an inquiry respecting an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a Member and provide a statutory declaration as required by Section 19.1(2)(b).

(3) The complaint may be filed with the City Clerk or directly with the Integrity Commissioner by a sealed hard copy or by email.

(4) Individuals, electors or persons demonstrably acting in the public interest who file a formal complaint under Sections 19.1(1) or 19.1(2) must provide a full and complete record of evidence to the Integrity Commissioner who is under no obligation whatsoever to, but may, seek additional information to supplement or complete the evidentiary record to substantiate or support the allegations set out in the complaint or request.

Classification by the Integrity Commissioner

19.2 (1) The Integrity Commissioner shall initially classify the complaint to determine if the matter is, on its face, a complaint with respect to non-compliance of the Code of Conduct and not covered by other legislation or other Council procedure, policy or rule or request or whether it is a request under section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

(3) If the complaint does not include a supporting affidavit or statutory declaration, the Integrity Commissioner may defer the classification until an affidavit or statutory declaration is received.

Complaints Outside Integrity Commissioner Jurisdiction

19.3 (1) If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall instruct the complainant as follows:

- a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that if they wish to pursue any such allegation, they must pursue it with the appropriate police force;
- b) if the complaint on its face is with respect 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 City Clerk for review;
- c) if the complaint on its face is with respect to non-compliance with another procedure, policy or rule of the City, the complainant shall be advised that the matter will be processed under that procedure, policy or rule by the appropriate City official or staff member;
- d) if the complaint is in relation to a matter which is governed by a code of conduct, 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 their 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, and,

- e) 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 or a local board as a whole and not one or more individual Members), the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

(2) 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 their sole discretion, suspend any investigation, in whole or in part, pending the result of the other process.

(3) 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 their 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.

Limitation Period

19.4 (1) The Integrity Commissioner shall not accept a complaint under the Code of Conduct for which the event giving rise to the complaint occurred or came to the attention of the complainant more than ninety (90) days prior to the date of the filing of the complaint. The complainant must establish that the event giving rise to the complaint occurred and/or came to the complainant's attention within ninety (90) days of the complaint being filed in accordance with Section 19.1.

19.5 (2) The Integrity Commissioner shall not accept a request relating to section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* except in accordance with the requirements of subsections 8(2)-(6) of that statute and section 223.4.1 of the *Municipal Act, 2001*.

Refusal to Conduct Investigation

19.6 If the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the complaint constitutes an abuse of process, or the complaint does not warrant a full investigation, the Integrity Commissioner shall not be required to conduct an investigation and may summarily dismiss the complaint. Where this becomes apparent in the course of an investigation, the Integrity Commissioner shall terminate the investigation and provide notice to the complainant, and, if necessary, to the Member and the determination of the Integrity Commissioner is final.

Informal Resolution

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

Investigation

19.8 (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction, the Integrity Commissioner may investigate by exercising the powers of a commission under sections 33 and 34 of the *Public Inquiries Act, 2009*. The Integrity Commissioner shall comply with the procedures specified in the *Public Inquiries Act, 2009* and this Complaint Procedure, but, if there is a conflict between a provision of the Complaint Procedure and a provision of the *Public Inquiries Act, 2009*, the provision of the *Public Inquiries Act, 2009* prevails.

(2) The Integrity Commissioner may proceed as follows, where the Integrity Commissioner has a full factual record and believes, in their sole discretion, that no additional information is required, or where otherwise required by the *Public Inquiries Act, 2009*:

- a) provide the Member with a copy of the complaint as redacted so as to not disclose:
 - (i) the identity of the complainant, or
 - (ii) the identity of any witnesses set out in the complaint or persons that are questioned/interviewed by the Integrity Commissioner;

- b) request that the Member provide a written response to the allegations in the complaint within ten (10) days;
- c) provide a copy of the Member's written response to the complainant with a request that the complainant provide a written reply within ten (10) days; and
- d) extend the timelines set out above if the Integrity Commissioner deems it necessary to do so in their sole and absolute discretion.

(3) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsection 223.4(2) of the *Municipal Act, 2001* and may enter any municipal or local board work location relevant to the complaint for the purposes of investigation and settlement.

(4) If a complaint alleges that the Member violated the Code of Conduct by improperly receiving a gift or benefit, the Integrity Commissioner shall examine the disclosure statement to ascertain whether the receipt of the gift or benefit might, in their opinion, create a conflict between a private interest and the public duty of the Member. Should the Integrity Commissioner determine that receipt of the gift or benefit was inappropriate, they may recommend that Council direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit the value of the gift or benefit already consumed to the City, or such other action as the Integrity Commissioner deems to be appropriate.

(5) If the Integrity Commissioner finds that the Member has violated the Code of Conduct, the Integrity Commissioner shall provide a draft report, including the general findings of their investigation and any recommended penalties or sanctions, to the complainant and the Member. The Member may file a response in writing within ten (10) days of receipt of the draft report.

Reports to Council

19.9 (1) The Integrity Commissioner shall provide a draft report to the complainant and the Member no less than ninety (90) days after the complaint was filed. If the investigation process is anticipated to take more than ninety (90) days, the Integrity Commissioner shall provide an interim report to Council and must advise the parties of the approximate date the report will be available. The Integrity Commissioner may also, at their discretion, advise any witnesses or other persons of the approximate date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, and/or recommended remedial or corrective measures or action(s).

(3) If the Integrity Commissioner provides notice under Section 19.8(1) that the investigation is anticipated or will take more than ninety (90) days to complete, the Integrity Commissioner shall provide notice to Council if the investigation is terminated.

(4) The Integrity Commissioner shall complete the investigation under the *Municipal Conflict of Interest Act* no later than one hundred eighty (180) days after the official receipt of any complaint validly made under Section 19.1(2).

(5) The City Clerk shall include the Integrity Commissioner's report for the next meeting of Council. The report shall remain confidential until the matter has received complete and final disposition by the Integrity Commissioner and has been reported out to the Members of Council through the City Clerk.

19.10 (1) If the Integrity Commissioner determines that:

- (a) there has been no contravention of the Code of Conduct or section 5, 5.1 or 5.2 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 of judgment made in good faith,

the Integrity Commissioner shall so state in the report and may recommend that no penalty be imposed.

- 19.11 Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings but may do so at their discretion and may also include such information as he/she deems necessary in a report or as part of an annual or other periodic report by the Integrity Commissioner.
- 19.12 The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of delay, interference, obstruction, reprisal or retaliation encountered during the investigation; or as otherwise deemed necessary by the Integrity Commissioner.
- 19.13 Should no complaints be received within a calendar year, the Integrity Commissioner shall report to Council accordingly.
- 19.14 The Integrity Commissioner shall report annually to Council on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

No Complaint Prior to Municipal Election

- 19.15 (1) Notwithstanding any other provision of this Complaint Procedure, no complaint may be filed with the Integrity Commissioner, and no 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 if 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*.

Duty of Council

19.16 Council shall consider and respond to the report within thirty (30) days after the day the report is laid before it.

Confidentiality

19.17 All complaints shall be processed in compliance with the confidentiality requirements in section 223.5 of the *Municipal Act, 2001*, which are summarized as follows:

- (a) the Integrity Commissioner and every person acting under her/his instructions shall preserve secrecy with respect to all matters that come to their knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of subsection 223.5(1) of the *Municipal Act, 2001*;
- (b) section 223.5 of the *Municipal Act, 2001* prevails over the *Municipal Freedom of Information and Protection of Privacy Act*;

- (c) the Integrity Commissioner shall disclose in a report to Council such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report;
- (d) the Clerk shall ensure that reports received from the Integrity Commissioner are made available to the public upon the matter being reported out to the members of Council;
- (e) the Integrity Commissioner nor any person acting under the instructions of the Integrity Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done in the course of the Integrity Commissioner's duties.

Reprisals and Obstructions

19.18 Members shall respect the integrity of the Code of Conduct and the process for complaints made under it. A Member shall not act in reprisal or threaten reprisal against a complainant or any person who provides information to the Integrity Commissioner during an investigation. A Member shall not obstruct the Integrity Commissioner in the carrying out of their responsibilities. A Member shall cooperate with requests for information during any investigation or inquiries and shall not destroy documents, erase electronic communications or refuse to respond to the Integrity Commissioner.

20.0 Transition

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

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