

Council Policy No.:	CP2020-001
Council Policy Name:	Code of Conduct and Ethics – Members of Council and Local Boards
Date Approved by Council:	January 28, 2020 CW2020-003, CR2020-005
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Related SOP, Management Directive, Council Policy, Forms	

Policy Statement and Rationale:

Members of Council have the privilege of attaining elected office. That privilege carries significant responsibilities and obligations with respect to the public trust. In order to strengthen the role of Council 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 City that govern Members' conduct 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

- All by-laws and policies approved by the Council of the City

Scope:

1. Scope:

- 1.1. The Code sets out and identifies the City'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 Members that it elects. 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 City'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 City'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) (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 City.
 - e) Public office is not to be used for the personal financial benefit of any Member;
 - f) That independent, impartial decision-making considers the best interests of the entire Municipality as envisioned in the Oath of Office;
 - g) City residents should have confidence in the integrity of their local government and of their Members; and
 - h) The conduct of each Member demonstrates fairness, respect for differences and a duty to work with other Members together for the common good.

2. Purpose

2.1. 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 as elected officials; and
- d) To provide a mechanism for responding to alleged breaches of the Code.

2.2. The clear statement of these standards and expectations should serve to enhance the public's confidence that the elected officials of the City of Kawartha Lakes will act with integrity and fairness to ensure responsible and accountable conduct by the Member.

3. Definitions:

3.1 In this Code:

"applicant" means a person who has applied for an investigation by the Integrity Commissioner of an alleged contravention of the Municipal Conflict of Interest Act;

"application" means a written request for an investigation with respect to an alleged contravention of the Municipal Conflict of Interest Act;

"City" means City of Kawartha Lakes;

"Clerk" means the Clerk of the City or his/her designate;

"Code" means the "Code of Conduct for Council Members" as established by Council pursuant to Section 223.2 of the Municipal Act, 2001;

"complainant" means a person who has filed a complaint in accordance with this Code;

"complaint" means a written objection filed with the Integrity Commissioner pursuant to this Code respecting a Member;

"confidential information" means any information in the possession of or received in confidence by the City that the City is prohibited from disclosing or has decided

to refuse to disclose under the Municipal Freedom of Information and Protection of Privacy Act or other legislation, which includes but is not limited to:

- (i) Information that is disclosed or discussed at a meeting that is closed to the public pursuant to subsection 239(2) of the Municipal Act, 2001;
- (ii) Information that is given verbally in confidence in preparation for or following a meeting that is closed to the public pursuant to subsection 239(2) of the Municipal Act, 2001;
- (iii) Personal information as defined in subsection 2(1) of the Municipal Freedom of Information and Protection of Privacy Act;
- (iv) Advice that is subject to solicitor-client privilege or information that concerns litigation or potential litigation, including matters before administrative tribunals, affecting the City;
- (v) Information that concerns any confidential matters pertaining to personnel, labour relations, or items under negotiation;
- (vi) Price schedules in contract tenders and information about suppliers provided in contract tender or requests for information, quotation or proposal submissions, if such information is given in confidence, implicitly or explicitly;
- (vii) Information circulated to Members and marked "confidential";
- (vii) Sources of complaints where the identity of the Complainant is given in confidence; or
- (viii) Any information lawfully determined by the Council to be confidential or required to remain or be kept confidential by legislation or order.

“Council” means the Council of City of Kawartha Lakes;

“gift” means 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;

“harassment” or “harass” involves engaging in a course of behaviour, comment or conduct, 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 any behaviour, conduct or comment by a Member that is directed at or 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;

“Integrity Commissioner” means the person appointed by Council pursuant to Section 223.3 of the Municipal Act, 2001;

“Local Board” is hereby defined as in Section 1(1) and Section 223.1 of the Municipal Act, 2001;

“meeting” means any legally-constituted meeting of Council or a Local Board;

“Member” means a Member of Council including the Mayor, or a Member of a Local Board;

“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 City;

“social media” means web-based applications and on-line forums that allow users to interact, share and publish content such as text, links, photos, audio and video; and

“Staff” includes anyone employed by the City of Kawartha Lakes including full-time, part-time, temporary or seasonal Staff, contract Staff, students and volunteers (in accordance with the Municipal Act, 2001, Members are not considered employees of the City).

Policy:

4. Conduct of Members

4.1 In all respects, Members shall:

- a) Make every effort to act with good faith and care;
- b) Conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the City’s Procedural By-law or other applicable procedural rules and policies;
- c) Seek to advance the public interest with honesty;

- d) Seek to serve their constituents in a conscientious and diligent manner;
- e) Respect the individual rights, values, beliefs and personality traits of any other person;
- f) 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;
- g) Accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings; and
- h) Refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

5. Compliance with the Code of Conduct

5.1 This Code applies to every Member. This Code shall be applied to Members of Local Boards, who are not Members of Council, with necessary modifications applied in the discretion of the Integrity Commissioner.

5.2 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 inquiries and investigations conducted under it; and
- c) Co-operate in every way possible in securing compliance with the application and enforcement of the Code.

5.3 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 municipal official 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.

6. Transparency and Openness in Decision Making

6.1 Members shall:

- a) Conduct Council business and their duties in an open and transparent manner so that the public can understand the process and rationale which has been used to reach decisions;
- b) Ensure the public has input and receives notice regarding Council's decision-making processes in accordance with the Procedure By-law; and
- c) Ensure compliance with the Municipal Act, 2001; Municipal Conflict of Interest Act; Municipal Freedom of Information and Protection of Privacy Act, and other applicable legislation regarding open meetings, accountability and transparency.

7. Business/Organization Relations

- 7.1 Members of Council must demonstrate transparency with regards to business relations and/or organizations conducting business with the City. No Member shall act as a paid agent before Council except as provided for in the Municipal Conflict of Interest Act, as amended.
- 7.2 Actions of a Member of Council shall be above suspicion and shall not give rise to any conflict of interest. Dealings with business(es) and other interests must be able to bear the closest possible scrutiny and avoid risk of damage to public confidence in local government a Council Member's impartial and objective role in the decision-making process.
- 7.3 Members shall recognize the need for their decision-making to be viewed as impartial and transparent by either (a) refraining from meetings with developers, businesses or other organizations who have applications before the municipality and/or who wish to conduct business with the City, or (b) disclosing to Council and members of the public such information at the first opportunity.
- 7.4 It is recognized that Members may have work or business activities outside of their normal Council duties. Members shall ensure these responsibilities remain distinct and separate from City business.

8. Access to Information and Confidentiality

8.1 Through the course of their official duties, Members may have access to Confidential. Generally, the Municipal Freedom of Information and Protection of Privacy Act restricts or prohibits disclosure of information received in confidence from third parties of a corporate, financial, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor client privilege.

8.2 A Member shall:

- a) Only be entitled to have access to information in the possession of the City 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, he or she 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.

8.3 No Member shall:

- a) Obtain access, or attempt to gain access, to confidential information in the custody or control of the City 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, 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
- e) 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.

9. Staff Relations

- 9.1 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.
- 9.2 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 City without undue influence from any Member.
 - b) Respect the administrative structure (“chain of command”) and direct any staff performance concerns through the Chief Administrative Officer as the person responsible for the general control and management of the affairs of the City.
- 9.3 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.
 - 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.

10. Gifts

- 10.1 No Member shall accept a gift or personal benefit 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, hospitality or benefit paid 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.
- 10.2 Notwithstanding Section 10.1 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 City;
 - h) Food, lodging, transportation and entertainment provided by provincial, regional and local governments or political sub-divisions of them, and by the federal government or the government of a foreign country; and
 - i) 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.
- 10.3 A Member who has received and accepted a gift or benefit pursuant to Section 10.2 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 City's Clerk within 30 days of the Member receiving the gift and shall be a matter of public record and posted to the City's website.
- 10.4 No Member shall 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.

11. Use of Municipal Property

- 11.1 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.
- 11.2. Any equipment or supplies purchased by the City in the exercise of the Members at the end of a Member's term and/or restitution made as outlined in any relevant policy.

12. Political Activity and Work of a Political Nature

- 12.1. Members shall be aware of and adhere to the City's policy regarding use of corporate resources for election purposes.
- 12.2. No Member shall use City facilities, services, or property for an election or re-election campaign, expression of support for or against a political candidate, or any other outside political activity unless they personally pay for the use of the facilities, services or property. Additionally, no Member shall utilize the services of a City employee for a political campaign, during hours in which they are in the paid employment of the City. Members are not to promote themselves or another campaign through the use of advertisements, flyers, posters, or any other method of communication while located on Municipal property.
- 12.3. In applying these principles, the following shall apply during election periods, as defined by being between Registration Day up to and including Election Day:
- a) Public events will only be organized and run by the Council and/or staff if they are part of the normal services or operation of the Council.
 - b) Speeches for Council Members will only be prepared by staff in relation to events that are part of the normal services or operation of the Council and shall not contain any reference to the forthcoming election or election candidates.
 - c) Media services and advice, including media releases, will not be provided for Council Members by staff during the election period.
 - d) Council publications produced during the election period will not feature photographs or quotes from Council Members.
 - e) Neither the Council logo nor Council stationery will be used by Council Members in any way that relates to the election.

- f) Information on the City's Web site will be restricted to Council Member's photographs and contact details. References to the election on the Web site shall only relate to the process of conducting the election.
 - g) Council Member expenditures are not to be used for electoral purposes or electoral gain. Claims will only be reimbursed if the expenditure is incurred while conducting Council related business in accordance with the Councillor Expenditure Policy.
- 12.4. In addition, equipment and facilities provided to Council Members for the purpose of conducting normal council business will not be used for campaigning purposes.
- 12.5. Where Council Members have Council funded services, such as mobile phones, land lines and Internet connections, and where it is impractical for Council Members to discontinue their use of these during the election, Council Members will reimburse the Corporation for usage of those services during the election period that exceeds normal usage levels.

13. Harassment

- 13.1 No Member shall harass any other Member, any staff, or any member of the public.
- 13.2 A Member shall observe and comply with any workplace harassment and workplace violence policies of the City.

14. City Expenditures and Purchases

- 14.1 Members of Council are typically not involved in procurement activities for the City. However, where they may be authorized to be responsible for a certain budget and/or where they are anticipating reimbursement for purchases made, Members shall ensure they are following any relevant City by-laws and policies including, but not limited to, the Purchasing Policy and the Expense Policy.

15. Encouragement of Respect for the City and its By- Laws, Policies and Procedures

- 15.1 A Member shall:
- a) Encourage the public, prospective contractors and members of the public, and their colleagues to abide by the City'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.

16. Social Media

16.1. A Member shall:

- a) Adhere to any and all City 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 City when using social media.

16.2. 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.

17. Role of the Integrity Commissioner

17.1 The City shall appoint an Integrity Commissioner under Section 223.3 of the Municipal Act, 2001, who is an independent officer and who will report directly to Council and be responsible for carrying out his or her functions in accordance with the Municipal Act, 2001, and any other functions assigned by Council, in an independent manner.

17.2 The Integrity Commissioner shall provide the following services.

- a) The application of the Code.
- b) The application of any procedures, rules and policies of the City and Local Boards governing the ethical behaviour of Members.
- c) The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to Members.
- d) Requests from Members for advice respecting their obligations under the Code applicable to the Member.
- e) Requests from Members 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.

- f) Requests from Members for advice respecting their obligations under the Municipal Conflict of Interest Act.
- g) The provision of educational information to Members, the City and the public about the Code and about the Municipal Conflict of Interest Act.
- h) Any further services as may be set out within the contract for the provision of services between the City and the Integrity Commissioner.

18 Investigations

- 18.1 If a member of the public or Staff believes a Member of Council has contravened the Code of Conduct, they should submit a written complaint in accordance with the established Investigation Protocol set out in Appendix “A”.
- 18.2 If a member of the public or Staff believes a Member of Council has contravened any of section(s) 5, 5.1, or 5.2 of the Municipal Conflict of Interest Act, they should submit a written complaint in accordance with the Investigation Protocol set out in Appendix “B”.

Revision History:

Proposed Date of Review:

Revision	Date	Description of Changes	Requested By
0.0	01/20/2021	Updated Policy Template	
1.0	01/25/2022	Updated Schedule A and B to remove the affidavit requirement.	

“Appendix A” - Council Code of Conduct Investigation Protocol

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

1. Request for Inquiry

- a) A request for an inquiry shall be in writing.
- b) All requests for an inquiry shall be signed by an identifiable individual (which includes the signing officer of an organization).
- c) A request for an inquiry shall set out the grounds for the allegation that the Member has contravened the Council Code of Conduct, identifying with specificity the section(s) of the Code that were breached, and provide all relevant evidence in support of the request.
- d) All requests must include a signed Consent and Confidentiality Agreement.
- e) All requests must be submitted within six weeks of the Complainant becoming aware of the alleged contravention, and no more than six months after the alleged violation.
- f) In a municipal election year, starting on Nomination Day and ending on Voting Day, no requests for an inquiry shall be submitted to the IC and the IC shall not report to the City about whether or not a Member contravened the Council Code of Conduct.
- g) If the IC has not completed an inquiry into a potential Council Code of Conduct violation before Nomination Day for a regular election, the IC shall terminate the inquiry on that day. If the IC terminates an investigation, the IC shall not start another investigation into the matter unless, within 6 weeks after Voting Day in a regular election, the person who made the request or the Member or former Member whose conduct is concerned makes a written request to the IC that the inquiry be commenced.

2. Initial Review by the Integrity Commissioner

- a) The request shall be filed with the Municipal Clerk who shall forward the matter to the IC for initial review to determine if the matter is, on its face, within the time limitation and is a complaint with respect to non-

compliance with the Council Code of Conduct and is not covered by other legislation or other Council policies.

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

3. Integrity Commissioner Investigations

- a) If the IC is of the opinion that the referral of a matter to them is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the IC shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, shall terminate the investigation.

- b) Other than in exceptional circumstances, the IC shall not report to Council on any complaint described in subsection (a) except as part of an annual or other periodic report.

4. Investigation and Settlement

- a) If a complaint has been classified as being within the IC's jurisdiction and not rejected under Section 2 or 3, the IC shall investigate and may attempt to settle the complaint.
- b) Section 223.4(2) of the Municipal Act, 2001, authorizes the IC to exercise the powers of a commission under Parts I and II of the Public Inquiries Act.
- c) When the Public Inquiries Act applies to an investigation of a complaint, the IC shall comply with the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.
- d) The IC will proceed as follows, except where otherwise required by the Public Inquiries Act:
 - a. Serve the complaint and supporting material upon the Member whose conduct is in question with a request that a written response to the allegations be filed within ten days or such longer period as the IC may authorize in writing; and
 - b. Serve a copy of the response provided by the Member upon the Complainant with a request for a written reply within ten days or such longer period as the IC may authorize in writing.
- e) Section 33 of the Public Inquiries Act allows the IC to require anyone relevant to the complaint to give evidence and to access and examine any information relevant to the complaint and to enter any work location of the City relevant to the complaint for the purpose of investigation and settlement. The IC is to be provided free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the City.
- f) The IC shall not issue a report finding a violation of the Council Code of Conduct on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.

- g) The IC may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

5. Final Report

- a) The IC shall report to the Complainant and the Member, generally no later than 90 days after the making of the complaint.
- b) Where the complaint is sustained in whole or in part, the IC shall also report to Council outlining their findings and/or recommended penalty and the terms of any settlement.
- c) Where the complaint is dismissed, other than in exceptional circumstances, the IC shall not report to Council except as part of an annual or other periodic report.
- d) Any recommended corrective action or penalty must be permitted by the Municipal Act, 2001, and shall be designed to ensure that the inappropriate behaviour or activity does not continue and is not repeated.

6. Member Not Blameworthy

- a) If the IC determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the IC shall so state in the report and shall recommend that no penalty be imposed.

7. Report to Council

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

8. Council Review

- a) Council shall consider and respond to the report within 90 days after the day the report is laid before it.
- b) Section 223.4(5) of the Municipal Act, 2001, allows the City to impose either of the following penalties on a Member if the Commissioner reports

to the City that, in their opinion, the Member has contravened the Council Code of Conduct:

- a. A reprimand.
- b. Suspension of the remuneration paid to the Member in respect of their service as a Member, for a period of up to 90 days.

9. Confidentiality

- a) Section 223.5(1) of the Municipal Act, 2001, provides that the IC shall preserve secrecy with respect to all matters that come to their knowledge in the course of their duties.
- b) If the IC provides a periodic report to the City on their activities, the IC may summarize advice they have given but shall not disclose confidential information that could identify a person concerned.
- c) If the IC reports to the City their opinion about whether a Member has contravened the Council Code of Conduct, the IC may disclose in the report such matters as in the IC's opinion are necessary for the purpose of the report (including the name of the Member whose conduct was investigated).

“Appendix B” - Conflict of Interest Investigation Protocol

Under Section 223.4.1(2) of the Municipal Act, 2001, a Member, an elector as defined in the Municipal Conflict of Interest Act, or a member of the public demonstrably acting in the public interest, may request the Integrity Commissioner (the “IC”) to conduct an inquiry about whether a Member has contravened Section 5, 5.1 and/or 5.2 of the Municipal Conflict of Interest Act.

1. Request for Inquiry

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

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

- b) All requests shall be signed by an identifiable individual (including the signing officer of an organization).
- c) A request shall set out the grounds, with supporting evidence, for the allegation that the Member has contravened Section 5, 5.1 and/or 5.2 of the Municipal Conflict of Interest Act and shall include a statutory declaration attesting to the fact that the Complainant became aware of the contravention not more than six weeks before the date of the request¹.

¹ Or, in the case where the Complainant became aware of the alleged contravention within the period of time starting six weeks before nomination day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention during that period of time.

- d) In a municipal election year, starting on Nomination Day and ending on Voting Day, no requests for an inquiry shall be submitted and the IC shall not report to the City about whether or not a Member of Council contravened the Municipal Conflict of Interest Act.

2. Initial Review by Integrity Commissioner

- a) The request shall be filed with the City's Clerk who shall forward the matter to the IC for initial review to determine if the matter is, on its face, a complaint with respect to non-compliance with Section 5, 5.1 and/or 5.2 of the Municipal Conflict of Interest Act.
- b) If the request does not include the required statutory declaration, the City's Clerk shall not forward the request to the IC until one is provided.
- c) If the complaint, including any supporting evidence, is not on its face a complaint with respect to non-compliance with Section 5, 5.1 and/or 5.2 of the Municipal Conflict of Interest Act or the complaint is covered by other legislation or a complaint procedure under another Council policy, the IC shall advise the Complainant in writing as follows:
 - a. If the complaint is, on its face, an allegation of a contravention of the Council Code of Conduct, the IC will investigate it as outlined in Appendix "A".
 - b. If the complaint on its face is an allegation of a criminal nature consistent with the Criminal Code of Canada, the Integrity Commissioner shall refer it to the appropriate authorities and advise the Complainant that if the Complainant wishes to pursue any such allegation, the Complainant must pursue it with the appropriate police service;
 - c. If the complaint on its face relates to non-compliance with the Municipal Freedom of Information and Protection of Privacy Act, the Complainant shall be advised that the matter will be referred to the City's Clerk for review.
 - d. If the complaint on its face is with respect to non-compliance with a different Council policy, with a separate complaint procedure, the Complainant shall be advised that the matter will be processed under that procedure; and
 - e. In other cases, the Complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the IC to process,

with any additional reasons and referrals as the IC considers appropriate.

- d) The IC shall report annually to Council on complaints made that were determined not to be within the jurisdiction of the IC, but shall not disclose information that could identify a person concerned.

3. Integrity Commissioner Investigations

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

4. Investigation & Settlement

- a) If a complaint has been classified as being within the IC's jurisdiction and not rejected under Section 2 or 3, the IC shall investigate and may attempt to settle the complaint.
- b) The IC shall complete their investigation within 180 days after the date of submission of the complaint.
- c) Section 223.4(2) of the Municipal Act, 2001, authorizes the IC to elect to exercise the powers of a commission under Parts I and II of the Public Inquiries Act.
- d) When the Public Inquiries Act applies to an investigation of a complaint, the IC shall comply with the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.
- e) The IC will proceed as follows, except where otherwise required by the Public Inquiries Act:
 - a. Serve the complaint and supporting material upon the Member whose conduct is in question with a request that a written response

to the allegations be filed within ten days or such longer period as the IC may authorize in writing; and,

- b. Serve a copy of the response provided by the Member upon the Complainant with a request for a written reply within ten days or such longer period as the IC may authorize in writing.
- f) Section 33 of the Public Inquiries Act allows the IC to require anyone relevant to the complaint to give evidence and to access and examine any information relevant to the complaint and to enter any work location of the City relevant to the complaint for the purpose of investigation and settlement. The IC is to be provided free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the City. The IC may conduct a public meeting to discuss the inquiry.
- g) Upon completion of the inquiry, the IC may, if they deem it appropriate, apply to a judge under Section 8 of the Municipal Conflict of Interest Act, for a determination as to whether the Member has contravened Section 5, 5.1, and/or 5.2 of the Act.
- h) After making their decision as to whether or not to apply to a judge as set out above, the IC will provide the City's Clerk, the Complainant and the Member with written reasons for the decision. Upon request, the City's Clerk will also provide a copy of the written reasons to a member of the public.
- i) The City shall pay any costs incurred by the IC in making its application to a judge as set out above.
- j) The IC may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during their investigation.

5. Final Report

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

decision shall constitute the final report on the matter. The City's Clerk shall post this court decision on the City's website.

6. Confidentiality

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