

**The Corporation of the
City of Timmins**



Policies and Procedures

COUNCIL CODE OF CONDUCT

Mayor and Council

Policy No: By-Law 2020-8454

1. PURPOSE

The purpose and intent of this policy is to establish guidelines for ethical and interpersonal standards of conduct for Members of Council by improving the quality of public administration and governance and by encouraging high standards of conduct on the part of all government officials. The Council Code of Conduct shall:

- (a) Protect the public interest.
- (b) Encourage high ethical standards among Municipal Council Members.
- (c) Provide a universal understanding of the fundamental rights, privileges, and obligations of Municipal Council Members.
- (d) Provide a means for Municipal Council Members to obtain authorization for some contemplated conduct in circumstances where they are uncertain as to the ethical appropriateness of that conduct.
- (e) Set out the means of correcting unethical conduct.
- (f) Ensure that Municipal Council Members discharge their duties in a manner that recognizes a fundamental commitment to the well-being of the community and regard for the integrity of the Corporation.
- (g) The Code of Conduct:
 - (i) ensures equitable treatment of citizens;
 - (ii) ensures equitable treatment of employees;
 - (iii) communicates corporate priorities to employees;
 - (iv) ensures compliance with statutory requirements;
 - (v) minimizes liability risks;
 - (vi) ensures accountability at all levels; and

- (vii) ensures optimal use of available resources.

2. DEFINITIONS

2.1 In this Code:

- (a) "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*;
- (b) "application" means a written request for an investigation with respect to an alleged contravention of the *Municipal Conflict of Interest Act*;
- (c) "City" means The Corporation of the City of Timmins;
- (d) "Clerk" means the Clerk of the City or his/her designate;
- (e) "Code" means the "Code of Conduct for Council Members" as established by Council pursuant to Section 223.2 of the *Municipal Act, 2001*;
- (f) "complainant" means a person who has filed a complaint in accordance with this Code;
- (g) "complaint" means a written objection filed with the Integrity Commissioner pursuant to this Code respecting a Member;
- (h) "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 tenders or requests for information, quotations or proposal submissions, if such information is given in confidence, implicitly or explicitly;
 - (vii) Information circulated to Members and marked "confidential";
 - (viii) Sources of complaints where the identity of the complainant is given in confidence; or
 - (ix) Any information lawfully determined by the Council to be confidential or required to remain or be kept confidential by legislation or order.
- (i) "Council" means the Council of The Corporation of the City of Timmins;
 - (j) "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;
 - (k) "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;
 - (l) "Integrity Commissioner" means the person appointed by Council pursuant to Section 223.3 of the *Municipal Act, 2001*;
 - (m) "Local Board" is hereby defined as in Section 1(1) and Section 223.1 of the *Municipal Act, 2001*;
 - (n) "meeting" means any legally-constituted meeting of Council or a Local Board;

- (o) “Member” means a member of Council including the Mayor, or a member of a Local Board;
- (p) “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;
- (q) “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
- (r) “Staff” includes anyone employed by the City of Timmins 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).

3. SCOPE

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.

4. RESPONSIBILITIES

It is incumbent upon Members of Council to be aware of, and understand, statutory obligations imposed upon municipal Council as a whole, as well as on Members of Council individually. This Code of Conduct is supplementary to existing legislation and policies and is meant to be considered, in whole, with existing laws.

4.1 Statutory Provisions Regulating Conduct

The Council Code of Conduct serves to supplement existing legislation and other existing City by-laws and all polices that govern the conduct of Members, including but not limited to:

- *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 City.*

5. PROCEDURE

This Code of Conduct is a value-based reference intended to encourage the highest standards of ethical behavior to uphold the public trust, the integrity of governance and the City's reputation. The principles identified in the Code of Conduct are those that have been recognized as being significant in the performance of political office.

Public expectations for those holding public office are extremely high. This Code of Conduct is intended to provide additional guidance to Members of Council in this regard.

In accordance with the *Municipal Act, 2001*, this Code of Conduct recognizes that the Mayor has additional responsibilities as defined in the *Municipal Act, 2001* as the Head of Council, and incorporates these provisions where appropriate.

As a municipality's Chief Executive Officer, the Head of Council shall:

- uphold and promote the purposes of the municipality;
- promote public involvement in the municipality's activities;
- act as the representative of the municipality both within and outside the municipality, promote the municipality locally, provincially, nationally, and internationally; and
- participate in and foster activities that enhance the economic, social, and environmental well-being of the municipality and its residents.

As a living document, the Code of Conduct will be brought forward for review at the start of each Council term, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.

6. CONDUCT FOR TRANSPARENT, ACCOUNTABLE, AND GOOD GOVERNANCE

The *Municipal Act, 2001*, Part VI, Practices and Procedures, establishes the organization, roles, and responsibilities for the Members of Council and administration, including the requirement to pass a Procedure By-law.

In accordance with the *Municipal Act, 2001*, the City's Procedure By-law provides rules governing the order and proceedings of the Council and Committees of Council. The Act and Procedure By-law ensure that the Council is the source of authority of the municipal government and its decisions are made and implemented through the appropriate channels of government structure.

Decision-making authority lies with Council as a whole, and not with an individual Member to approve, which includes but is not limited to the following:

- (a) budget;
- (b) policies;
- (c) committee processes;
- (d) direct staff;
- (e) commit resources; and
- (f) other municipal matters.

Members of Council endeavor to conduct the decision-making process and convey Council business in a transparent, accountable and equitable manner, recognizing that the public has a right to open government, participatory decision-making and reasonable access to information on how decisions are made.

Members of Council should continue to perform their respective duties of office with integrity to avoid conflicts of interest, both apparent and real.

6.1 Conduct for Council and Committee Meetings

Members of Council shall conduct themselves with decorum in accordance with the provisions of applicable laws including the *Municipal Act, 2001* and the City's Procedure By-law, to show courtesy and respect to fellow Members and others. Members shall recognize the importance of co-operation and strives to create an atmosphere during Council and Committee meetings that is conducive to solving the issues before Council, listening to various points of view and using respectful language and behavior in relation to all those in attendance.

Members shall make every effort to participate in the activities of the agencies, boards, commissions, and committees to which they are appointed in the same manner as Council activities.

In all respects, Members shall:

- (a) Make every effort to act with good faith and care;
- (b) Conduct themselves with decorum in accordance with the provisions of applicable law including the *Municipal Act, 2001*, and the City's Procedural By-law, to show courtesy and respect to fellow Members and others;
- (c) Make every effort to participate in the activities of the agencies, boards, commissioners, and committees to which they are appointed in the same manner as Council activities;
- (d) Seek to advance the public interest with honesty and to avoid conflicts of interest and unethical behaviour;
- (e) Seek to serve their constituents in a conscientious and diligent manner;
- (f) Respect the individual rights, values, beliefs and personality traits of any other person;
- (g) 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;
- (h) Accurately communicate the decisions of Council or Committees in such a manner that shows respect for the decision-making process of Council or Committees, even if the Member disagrees with Council's ultimate determinations and rulings;
- (i) Make it clear that he or she is expressing a personal opinion when expressing disagreement with a decision of Council; and
- (j) Refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

6.2 Conduct Respecting Staff

- (a) Section 6.2 shall be read in conjunction with the City's Staff Relations By-law.
- (b) Under the direction of the Chief Administrative Officer or designate, staff serves the Council as a whole and the combined interests of all Members as evidenced through the decisions of Council.
- (c) A Member shall:
 - (i) Respect the role of staff to advise based on political fairness,

objectivity, and without undue influence from any individual member or group of Council;

(ii) 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; and

(iii) Respect the professional capacities of the staff of the City.

(d) No Member shall:

(i) Maliciously or falsely harm the professional or ethical reputation or the prospects or practice of staff;

(ii) Cause persistent and excessive nit-picking, unjustified criticism, and constant scrutiny;

(ii) Exclude or ignore staff;

(iii) Refuse to acknowledge staff and staff’s contribution;

(iv) Undermine staff’s efforts by setting impossible goals and deadlines;

(v) Impede or have influence on staff’s effort in advancing, promotions, or transfers;

(vi) Compel staff to engage in partisan political activities, or subject staff to threat or discrimination for refusing to engage in such activities; and

(vii) Use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with the person’s duties including the duty to disclose improper activity.

6.3 Interpersonal Behaviour of Members of Council

(a) Treat Every Person with Dignity, Understanding and Respect

Members of Council shall abide by the provisions of the *Human Rights Code* and, in doing so, shall treat every person including other Members of Council, Committees, Boards, corporate employees, individuals providing services on a contract basis and the public with dignity, understanding and respect for the right to equality and the right to an environment that is safe and free from harassment and discrimination.

(b) Not Discriminate

In accordance with the *Human Rights Code*, Members of Council shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability. "Age", "disability", "family status", "record of offences", "same sex partnership status" shall be as defined in the *Human Rights Code*.

(c) Not Engage in Harassment

Members of Council shall not:

- (i) make racial, homophobic, sexist or ethnic slurs;
- (ii) display pornographic, homophobic, sexist, racist or other offensive or derogatory material;
- (iii) make leering (suggestive staring) or other offensive gestures;
- (iv) make written or verbal abuse or threats;
- (v) vandalize the personal property of others;
- (vi) commit physical or sexual assault;
- (vii) make unwelcome remarks, jokes, innuendos or taunting statements about a person's physical appearance, racial background, colour, ethnic origin, place of origin, citizenship, ancestry, creed (religion or belief), sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, disability (physical or mental);
- (viii) make unwelcome remarks, insulting gestures or jokes which cause embarrassment or awkwardness;

- (ix) refuse to converse or interact with anyone because of their racial or ethnic background, colour, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability;
- (x) make unnecessary or unwanted physical contact, including touching, patting, or pinching; and
- (xi) demand sexual favours or requests.

6.4 Conduct Respecting Confidential Information

- (a) Through the course of their official duties, Members may have access to Confidential Information. 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.
- (b) A Member shall:
 - (i) 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;
 - (ii) Have a continuing obligation to keep information confidential, even if the Member ceases to be a Member; and
 - (iii) Comply with the *Municipal Freedom of Information and Protection of Privacy Act* at all times.
- (c) No Member shall:
 - (i) 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*;
 - (ii) Use confidential information, which is not available to the general public, and to which Members of Council have access by reason of their position with the City to further their personal interests or the interests of others;
 - (iii) 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;

- (iv) 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;
- (v) Disclose either directly or indirectly, release, make public, or in any way divulge any such information (verbal or written) or any aspect of the information, in “Closed Session” deliberations to anyone, unless expressly authorized by Council or required by law to do so; or
- (vi) Make public comments, discussions and disclosures to the media regarding employees of the City.

6.5 Social Media

- (a) A Member shall:
 - (i) Adhere to any and all City policies and guidelines, regarding social media use; and
 - (ii) 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.
- (b) 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.

7. CONDUCT RESPECTING CORPORATE RESOURCES

7.1 Charitable Activities

As community leaders, Members of Council are called upon to assist and support various charities, service clubs, and other non-profit and community-based associations. For example, Members support their communities in a variety of ways including but not limited to:

- accepting honorary roles in organizations;
- lending their names to organizations and events to assist in fundraising; and
- encouraging community donations to registered charitable, not-for-profit, or other community-based groups.

Members supporting these community endeavours will respect the need for transparency with respect to their involvement, performing their community service in a manner that promotes public confidence.

7.2 Commitment of City Resources

Members respect that the powers of the municipality are exercised by Council. Council, as a whole, is responsible for decisions that direct staff and establish the parameters for use of corporate resources to address municipal issues and provide services. For tasks or actions that require the commitment of significant staff time and/or City resources, Members will pursue such action through recommendation of Committee and decision of Council. By doing so, all Members of Council confirm that the Corporation's interests and business are being advanced in compliance with all applicable rules and policies respecting the use of corporate resources.

7.3 Use of Municipal Property

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.

7.4 Conduct Respecting Election Campaigns

During a municipal election, Members of Council must conduct themselves in accordance with the provisions of the *Municipal Elections Act*, in addition to legislation and policies that are in place during the term of office, including this Code of Conduct.

It is the personal responsibility of each Member, acting also as a candidate, to ensure that their election campaign is carried out in accordance with all applicable legislation.

The Mayor and Councillors' election campaign or campaign-related activities are prohibited from using corporate resources, both real property and staff, to avoid the perception that the City has provided an advantage over other candidates. This does not preclude a candidate's use of city information that had been published and is in the public domain and is not subject to copyright protection.

Members of Council can expect that the City Clerk will manage the municipal election process and meet all statutory requirements in accordance with the *Municipal Elections Act*. Members of Council respect that the role of the City Clerk and municipal staff is to ensure all candidates are treated equally and similarly.

8. CONDUCT RESPECTING GIFTS, HOSPITALITY, AND BENEFITS

The objective of these policies is to ensure that Councillors make Council decisions based on impartial and objective assessment of each situation free from influence of gifts, favours, hospitality or entertainment.

In this policy, gifts, commission, hospitality, reward, advantage or benefit of any kind, may be interchanged and shall be deemed to include all of the aforementioned.

8.1 The stipend paid to each Member of Council is intended to fully remunerate Members of Council for service to the Corporation.

8.2 Members of Council are prohibited from soliciting, accepting, offering or agreeing to accept any gifts, commission, hospitality, reward, advantage or benefit of any kind, personally or through a family member or business connection, that is connected directly or indirectly with the performance of duties of office or dealings with the municipality or could reasonably be construed as being given in anticipation of future or recognition of past special consideration. 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.

8.3 The above policy does not preclude Members of Council from accepting:

- (a) Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee for speaking at an event or for representing the Corporation at an event;
- (b) Political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- (c) Food and beverages at meetings, banquets, receptions, ceremonies or similar events;
- (d) Food, lodging, transportation, entertainment provided by other levels of government, by other local governments or by local government boards or commissions;
- (e) A stipend from a board or commission that the Councillor serves on as a result of an appointment by Council;
- (f) Reimbursement of reasonable expenses incurred in the performance of office;
- (g) Reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
- (h) Gifts of a nominal value that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office;

- (i) Services provided without compensation by persons volunteering their time for election campaign.

8.4 Where it is not possible to decline unauthorized gifts, hospitality or other benefit, Members of Council shall report the matter to the Chief Administrative Officer. The Chief Administrative Officer may require that the gift be returned to the sender with an acknowledgement of the return and reference to this Code of Conduct or be retained by the Corporation or be disposed for charitable purposes.

8.5 Members of Council shall not place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment.

9. ROLE OF THE INTEGRITY COMMISSIONER

9.1 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.

9.2 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) Request 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 behavior 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*; and

- (h) Any further services as may be set out within the contract for the provision of services between the City and the Integrity Commissioner.

10. INVESTIGATIONS

- 10.1 If a Member of the public or Staff believes a Member has contravened the Code of Conduct, they should submit a written complaint in accordance with the established protocol set out in Appendix “A”.
- 10.2 If a Member of the public or Staff believes a Member 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 protocol set out in Appendix “B”. The provisions of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* are set out in Appendix “C”.

11. FORMS

Acknowledgement by members

SIGNATURE

The undersigned Member of Council hereby acknowledges receipt of a copy of By-law _____, being the Mayor and Councillors "Code of Conduct By-law".

Signature of Member of Council

Date of Signature

Acknowledgement of Receipt of Code of Conduct Policies

PRINTED NAME

NOTE:

The Member of Council acknowledges that a copy of **By-law** containing the Code of Conduct Policy for Council was provided to the Member. One signed copy of the "**ACKNOWLEDGMENT**" was returned to the Clerk and the Member of Council retained a complete copy of the By-law.

12. SUMMARY INFORMATION

Policy Name: Council Code of Conduct

Issue Date: 2016

Last Revision Date: April 30, 2020

Next Review Date:

Approved by:

Approval Date:

“Appendix A”

Council Code of Conduct Complaint Protocol

**“Appendix A”
Council Code of Conduct
Complaint Protocol**

A. Informal Complaint Procedure

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

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

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

B. Formal Complaint Procedure

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

1. Request for Inquiry

- a) 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 all reasonable and probable grounds for the allegation that the Member has contravened the Council Code of Conduct and shall include a supporting affidavit that sets out the evidence in support of the complaint.
- d) Staff in the office of the City Clerk, who are commissioners for taking affidavits, are authorized to swear the supporting affidavit.
- e) All requests must include a signed Consent and Confidentiality Agreement.
- f) 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.
- g) The fee to initiate a formal request is \$200.00, payable in cash, or certified cheque to the City. This fee will be refunded if the Integrity Commissioner determines that the complaint warrants proceeding to the investigation stage.
- h) 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.
- i) 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 City Clerk who shall forward the matter to the IC for initial review to determine if the matter is, on its face, within the time limitation and is a complaint with respect to non-compliance with the Council Code of Conduct and is not covered by other legislation or other Council policies.

- b) If the request does not include the required affidavit, the request will be deemed incomplete and the City Clerk will return the request to the complainant.
- c) If the complaint, including any supporting affidavit, is not on its face, a complaint with respect to non-compliance with the Council Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the IC shall advise the complainant in writing as follows:
 - a. If the complaint is, on its face, an allegation of a contravention of the *Municipal Conflict of Interest Act*, the IC will investigate it as outlined in Appendix “B”.
 - b. If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the IC shall refer it to the appropriate authorities and advise the complainant that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police service.
 - c. If the complaint on its face relates to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the Complainant shall be advised that the matter will be referred to the City 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.
- 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) The IC shall report to Council that a specific complaint has been terminated, but shall not disclose confidential information that could identify a person concerned.

4. Investigation & Settlement

- a) If a complaint has been classified as being within the IC's jurisdiction and not rejected under section 2 or 3, the IC shall investigate and may attempt to settle the complaint.
- b) Section 223.4(2) of the *Municipal Act, 2001*, authorizes the IC to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*.
- c) When the *Public Inquiries Act* applies to an investigation of a complaint, the IC shall comply with the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.
- d) Bearing in mind the confidentiality requirements of the *Municipal Act, 2001*, it will be at the discretion of the IC whether to disclose the identity of the complainant to relevant parties in order to facilitate the investigation. Any party to this investigation who is made aware of the identity of the complainant is bound to maintain the secrecy of the complainant and is not to use this information for any purpose other than to provide a full answer or defence to the complaint.
- e) The IC will proceed as follows, except where otherwise required by the *Public Inquiries Act*:
 - a. Serve the complaint and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit be filed within ten days or such longer period as the IC may authorize in writing; and
 - b. Serve a copy of the response provided by the Member upon the complainant with a request for a written reply within ten days or such longer period as the IC may authorize in writing.
- f) Section 33 of the *Public Inquiries Act* allows the IC to require anyone relevant to the complaint to give evidence and to access and examine any information relevant to the complaint and to enter any work location of the 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.
- g) The IC shall not issue a report finding a violation of the Council Code of Conduct on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.

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

5. Final Report

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

6. Member Not Blameworthy

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

7. Copies

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

8. Report to Council

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

9. Council Review

- a) Council shall consider and respond to the report within 90 days after the day the report is laid before it.

- b) Section 223.4(5) of the *Municipal Act, 2001*, allows the 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.

10. Confidentiality

- a) Section 223.5(1) of the *Municipal Act, 2001*, provides that the IC shall preserve secrecy with respect to all matters that come to their knowledge in the course of their duties.
- b) If the IC provides a periodic report to the 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).

11. Request for Reimbursement of Member's Costs

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

“Appendix B”

Conflict of Interest Investigation Protocol

“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 or 5.2 of the *Municipal Conflict of Interest Act*, as set out in Appendix “C”.

1. Request for Inquiry

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

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

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

- b) If the request does not include the required affidavit, the City Clerk shall not forward the request to the IC until one is provided.
- c) If the complaint, including any supporting affidavit, is not on its face, a complaint with respect to non-compliance with Section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* or the complaint is covered by other legislation or a complaint procedure under another Council policy, the IC shall advise the Complainant in writing as follows:
 - a. If the complaint is, on its face, an allegation of a contravention of the Council Code of Conduct, the IC will investigate it as outlined in Appendix “A”.
 - b. If the complaint on its face is an allegation of a criminal nature consistent with the Criminal Code of Canada, the Integrity Commissioner shall refer it to the appropriate authorities and advise the complainant that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police service;
 - c. If the complaint on its face relates to non-compliance with the Municipal 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.
 - 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 (i) except as part of an annual or other periodic report.

4. Investigation & Settlement

- a) If a complaint has been classified as being within the IC's jurisdiction and not rejected under Section 2 or 3, the IC shall investigate and may attempt to settle the complaint.
- b) The IC shall complete their investigation within 180 days after the date of submission of the complaint.
- c) Section 223.4(2) of the *Municipal Act, 2001*, authorizes the IC to elect to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*.
- d) When the *Public Inquiries Act* applies to an investigation of a complaint, the IC shall comply with the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.
- e) The IC will proceed as follows, except where otherwise required by the Public Inquiries Act:
 - a. Serve the complaint and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit be filed within ten days or such longer period as the IC may authorize in writing; and,
 - b. Serve a copy of the response provided by the Member upon the complainant with a request for a written reply within ten days or such longer period as the IC may authorize in writing.
- f) Section 33 of the *Public Inquiries Act* allows the IC to require anyone relevant to the complaint to give evidence and to access and examine any information relevant to the complaint and to enter any work location of the 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, 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 Clerk, the complainant and the Member with written reasons for the decision. Upon request, the City 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 Clerk outlining their decision to not apply to a judge under Section 8 of the *Municipal Conflict of Interest Act*, for a determination as to whether the Member has contravened Section 5, 5.1, or 5.2 of the Act shall constitute the final report on the matter.
- b) Where the IC has applied to a judge under Section 8 of the *Municipal Conflict of Interest Act*, for a determination as to whether the Member has contravened Section 5, 5.1, or 5.2 of the Act, the resulting court decision shall constitute the final report on the matter. The City 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 or 5.2 of the *Municipal Conflict of Interest Act*;
 - b. in an application to a judge for a determination as to whether a Member has contravened Section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*; and,
 - c. in the written reasons provided by the IC as to why they did/did not apply to a judge as to whether a Member has contravened Section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

“Appendix C”

Sections 5, 5.1, and 5.2 of the *Municipal Conflict of Interest Act*

Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50

DUTY OF MEMBER

When present at meeting at which matter considered

5 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

Where member to leave closed meeting

(2) Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration. R.S.O. 1990, c. M.50, s. 5 (2).

Exception, consideration of penalty

(2.1) The following rules apply if the matter under consideration at a meeting or a part of a meeting is to consider whether to suspend the remuneration paid to the member under subsection 223.4 (5) or (6) of the *Municipal Act, 2001* or under subsection 160 (5) or (6) of the *City of Toronto Act, 2006*:

1. Despite clauses (1) (b) and (c), the member may take part in the discussion of the matter, including making submissions to council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting. However, the member is not permitted to vote on any question in respect of the matter.
2. Despite subsection (2), in the case of a meeting that is not open to the public, the member may attend the meeting or part of the meeting during which the matter is under consideration. 2017, c. 10, Sched. 3, s. 3.

When absent from meeting at which matter considered

(3) Where the interest of a member has not been disclosed as required by subsection (1) by reason of the member's absence from the meeting referred to therein, the member shall disclose the interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may

be, attended by the member after the meeting referred to in subsection (1). R.S.O. 1990, c. M.50, s. 5 (3).

Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 3, s. 3 - 01/03/2019

Written statement re disclosure

5.1 At a meeting at which a member discloses an interest under section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the municipality or the secretary of the committee or local board, as the case may be. 2017, c. 10, Sched. 3, s. 4.

Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 3, s. 4 - 01/03/2019

Influence

5.2 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

Exception

(2) However, if a municipality delegates a power to suspend the remuneration paid to a member under subsection 223.4 (5) of the *Municipal Act, 2001* or subsection 160 (5) of the *City of Toronto Act, 2006* to a person or body, and the person or body is considering exercising that power with respect to a member, subsection (1) of this section does not prevent the member from attempting to influence any decision or recommendation of the person or body that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 3, s. 4 - 01/03/2019