



THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NUMBER 044-2019

A BY-LAW TO AUTHORIZE EXECUTION OF AN AGREEMENT TO APPOINT AIRD & BERLIS LLP TO PROVIDE SERVICES OF THE INTEGRITY COMMISSIONER AND CLOSED MEETING INVESTIGATOR FOR THE TOWN OF COBOURG.

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS on March 1, 2019, Part V.1 of the *Municipal Act, 2001* was amended to provide that all municipalities in Ontario are to appoint an Integrity Commissioner with independent authority to perform the following functions pursuant to subsection 223.3(1):

1. The application of the code of conduct for members of council and the code of conduct for members of local boards;
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards;
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards;
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member;
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members;
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*; and
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*;

AND WHEREAS subsection 239.2(1) of the *Municipal Act, 2001* authorizes a municipality to appoint an investigator who has the function to investigate in an independent manner, on a complaint made to him or her by any person, whether the municipality or local board has complied with section 239 or a procedure by-law under subsection 238(2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation;

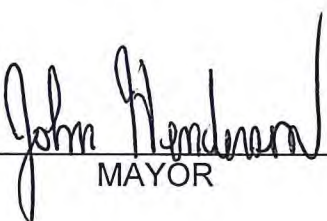
AND WHEREAS Municipal Council of the Town of Cobourg passed a motion at the Committee of the Whole meeting of June 24, 2019 to authorize execution of an agreement with Aird & Berlis LLP to provide services as an Integrity Commissioner and Closed Meeting Investigator for the Town of Cobourg;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

1. **THAT** Aird & Berlis LLP be appointed as Integrity Commissioner and as Closed Meeting Investigator for the Town of Cobourg to carry out the statutory functions in an independent manner;
2. **THAT** the Mayor and Municipal Clerk are hereby authorized and instructed to execute on behalf of the Corporation of the Town of Cobourg an agreement with Aird & Berlis LLP to provide the services of Integrity Commissioner and Closed Meeting Investigator for the Town of Cobourg;
3. **THAT** upon appointment Aird & Berlis LLP will have all the functions, powers and duties of an Integrity Commissioner as set out in Part V.1, Accountability and Transparency, of the *Municipal Act, 2001* and in addition such functions, powers and duties as may be assigned by the Municipal Council from time to time;
4. **THAT** the Town of Cobourg hereby indemnifies and save harmless the Integrity Commissioner or any person acting under the instructions of the Integrity Commissioner for costs reasonably incurred in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a function, duty or authority under Part V.1 of the *Municipal Act, 2001* or a by-law passed thereunder, or an alleged neglect or default in the performance in good faith of the function, duty or authority;
5. **THAT** the Integrity Commissioner shall cause to preform, in an independent manner, the functions of an Integrity Commissioner pursuant to Part V.1 of the *Municipal Act, 2001* with respect to the application of the code of conduct for members of council, including any legislation, procedures, rules and policies of the Town of Cobourg governing the ethical behaviour of the members of Municipal Council and the Municipality's local boards. The mandate of the Integrity Commissioner will include:
 - (1) Provisions of advice and education upon request by a member of council or by council as a whole, regarding ethical obligations and responsibilities under their code of conduct, and any other legislation, rules or policies governing their ethical behaviour;
 - (2) Receiving, assessing and investigating where appropriate, complaints made by Municipal Council, a member of Municipal Council, a member of staff, or a member of the public respecting an alleged breach of the code of conduct for members of Municipal Council and the members of the Municipality's local boards through the provisions of the Town of Cobourg Code of Conduct and the Complaints Protocol;

- (3) Receiving, assessing and conducting an inquiry, where appropriate, with respect to requests for an inquiry made by an elector or a person demonstrably acting in the public interest concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a member of Municipal Council or of the Municipality's local boards;
 - (4) Giving advice on policy issues and the workings of the Town of Cobourg's procedures and protocols relating to the Code of Conduct and the Integrity Commissioner or such other procedures, rules and policies of the Municipality and its local boards governing the ethical behaviour of their members; and
 - (5) All advice being provided in writing in accordance to the requirements of subsection 223.3(2.2).
6. **THAT** the Integrity Commissioner will report directly to Municipal Council with a report containing the results of investigations and one annual report summarizing the year's activities, observations and any resulting general recommendations;
 7. **THAT** the Integrity Commissioner may recommend that the Municipal Council impose penalties and/or any remedial or corrective measures or actions in accordance with the *Municipal Act, 2001* if in the opinion of the Integrity Commissioner, a member of Municipal Council or a local board has contravened the code of conduct;
 8. **THAT** all services provided by the Integrity Commissioner and the Closed Meeting Investigator conform to all statutory requirements of sections 223.2 to 223.8 and 239.2 of the *Municipal Act, 2001*, as may be applicable.
 9. **THAT** this by-law shall take effect upon the final date of passing and the term of appointment for Integrity Commissioner and Closed Meeting Investigator shall expire on December 30, 2023.
 10. **THAT** By-law No. 097-2015 is hereby repealed.

By-law read and passed in Open Council on this 2nd day of July, 2019.


MAYOR


MUNICIPAL CLERK