



THE CORPORATION OF THE TOWN OF COBOURG

**BY-LAW NUMBER 068-2019**

**A BY-LAW TO ADOPT A CODE OF CONDUCT FOR THE COUNCIL AND LOCAL BOARDS OF THE CORPORATION OF THE TOWN OF COBOURG.**

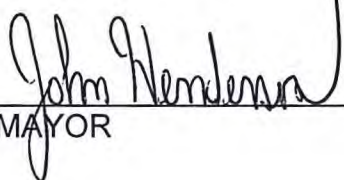
**WHEREAS** Section 11 of the *Municipal Act* S.O. 2001, C.25, as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations;


**AND WHEREAS** Section 223.2(1) of the *Municipal Act* S.O. 2001, C.25, as amended, requires a municipality to establish codes of conduct for Members of Council of the municipality and of local boards of the municipality.

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

1. THAT the Code of Conduct for Municipal Council and Local Boards, Schedule "A", attached hereto and forming part of this By-law be adopted.
2. THAT this By-law shall come into force and take effect on the date of its final passing.

READ and passed in Open Council this 30<sup>th</sup> day of September, 2019.

  
MAYOR

  
MUNICIPAL CLERK



# CORPORATION OF THE TOWN OF COBOURG

Division: Corporate Services

Effective Date: September 30, 2019

Department: Legislative Services

Approval Level: Council

Policy Title: **Code of Conduct for Members  
of Council and Local Boards  
- Administration**

Section # **3-1**  
By-law # **068-2019**

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## Purpose

### 1.0 STATEMENT AND PURPOSE

- 1.1 This Code of Conduct applies to all Members of the Council of the Town of Cobourg, including the Mayor and Deputy Mayor and, unless specifically indicated, and with necessary modifications, to all of the Town's committees, agencies, boards and commissions, which comprise and are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*.
- 1.2 The purpose of this Code of Conduct is to establish a general standard to ensure that all Members share a common basis for acceptable conduct, and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedure By-law and other sources of applicable law, including but not limited to:
- *Municipal Act, 2001*
  - *Municipal Conflict of Interest Act*
  - *Municipal Elections Act, 1996*
  - *Municipal Freedom of Information and Protection of Privacy Act*
  - *Human Rights Code*
  - *Occupational Health and Safety Act*
  - *Provincial Offences Act*
  - *Criminal Code*
- 1.3 This Code applies to members of local boards but it is recognized that such members do not hold elected office nor do they represent the community in general. Members of local boards do not represent Council of the Town as whole unless mandated to do so.



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## Policy

### 2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Town by its Members as duly elected or appointed public representatives of local boards to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve and be seen to serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office and act without self-interest;
- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
- Members shall be cognizant that they are at all times representatives of the Town and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Town; and
- Members shall uphold the spirit and the letter of the laws of Ontario and Canada and the laws and policies adopted by Council.

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



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## 4.0 General Obligations

4.1 In all respects, a Member 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 Town's Procedure 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, recognizing that all persons are entitled to be treated equally with dignity and respect for their personal status regarding gender, sexual orientation, gender identity, gender expression, race, creed, religion, ability and spirituality;
- (f) refrain from making statements known to be false or with the intent to mislead Council or the public;
- (g) recognize that they are representatives of the Town and that they owe a duty of loyalty to the residents of the Town at all times;
- (h) 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
- (i) refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

## 5.0 The Role of Staff

5.1 Council as a whole approves the budget, policies and governance of the Town through its by-laws and resolutions. An individual Member does not direct nor oversee the functions of the staff of the Town.

5.2 Town staff serve Council and work for the Town as a body corporate under the



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direction of the CAO. Members shall acknowledge, respect and have regard for the administration, managerial and organizational structure of the Town when requesting information or advice from staff.

- 5.3 A Member shall comply with the Town's Council and Staff Relationship Policy.
- 5.4 A Member shall not publicly criticize staff. Should a Member have any issue with respect to any staff member, such issue shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior.
- 5.5 A Member shall respect the role of staff in the administration of the business and governmental affairs of the Town, and acknowledge and appreciate that staff:
- (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that a Member must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
  - (b) work within the administration of justice and that a Member must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, a Member shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and
  - (c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, a Member must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

## 6.0 Town Property

- 6.1 Council is the custodian of the assets of the Town. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.
- 6.2 By virtue of their office or appointment, a Member must not use or permit the use of the Town's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Town unless they are entitled to such use



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equally with any other resident and have paid fair market value for such use. No Member shall seek financial gain for themselves, family or friends from the use or sale of the Town's intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Town.

## 7.0 Gifts and Benefits

- 7.1 Any gift to a Member risks the appearance of improper influence. Gifts may improperly induce influence or create an incentive for a Member to make decisions on the basis of relationships rather than in the best interests of the Town. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality, loan or any form of personal benefit connected directly or indirectly with the performance of his or her duties except as provided in Section 7.2. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.
- 7.2 For greater clarity, despite Section 7.1, a Member is entitled to accept any compensation, remuneration or benefits authorized by law but shall not accept any gift or benefit other than in the following circumstances:
- (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
  - (b) a political contribution otherwise reported by law, in the case of a Member running for office;
  - (c) services provided without compensation by persons volunteering their time for a charitable or non-profit event or for the Member's re-election campaign;
  - (d) nominal tokens, mementos or souvenirs received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;
  - (e) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or by the federal government or by a foreign government within a foreign country, or by a



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conference, seminar or event organizer where the Member is either speaking or attending in an official capacity as a representative of the Town;

- (f) entrance fees or food and beverages consumed at banquets, receptions or similar events, if:
  - (i) attendance serves a legitimate municipal business purpose related to the normal business of the Town,
  - (ii) the person extending the invitation or a representative of the organization is in attendance, and
  - (iii) the value is determined by the Integrity Commissioner to be reasonable and the invitations are infrequent;
- (g) gifts not having a value greater than \$350;
- (h) benefits received as a door prize, raffle or similar draw at an event, conference or seminar attended by the Member; and
- (i) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

7.3 A Member who has received and accepted a gift or benefit pursuant to Section 7.2(a), (f), (g), (h) and (i) 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 in accordance with the Disclosure Statement set out in Appendix "A". A Member shall provide the Disclosure Statement to the Clerk on an annual basis by March 31 for the preceding calendar year and it shall be a matter of public record.

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



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## 8.0 Confidential Information

8.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the Town that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council or committees of local boards. Examples of types of information that a Member must keep confidential, unless expressly authorized by Council or as required by law, include, but are not limited to:

- (a) matters related to ongoing litigation or negotiation, or that is the subject of solicitor-client privilege;
- (b) information provided in confidence, for example, the identity of a complainant where a complaint is made in confidence, personal information of an individual derived from municipal records or other information that a Member receives in confidence by virtue of their office as an elected representative;
- (c) price schedules in contract tender or request for proposal submissions if so specified;
- (d) personnel matters about an identifiable individual;
- (e) "personal information" as defined in the *Municipal Freedom of Information and Protection of Privacy Act*;
- (f) any census or assessment data that is deemed confidential; and
- (g) the purchase or sale of personal or real property by the Town.

8.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting. A Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Any hard copies of confidential documents received at a closed meeting are to be turned into the Clerk at the end of the closed meeting. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.





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- 8.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Town that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Town and must follow the same processes as any private citizen to obtain such information.
- 8.4 A Member shall not misuse confidential information in any way or manner such that it may cause detriment to the Town, Council or any other person, or for financial or other gain for themselves or others.
- 8.5 A Member shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, municipal policies, procedures and rules, ethical standards and, where appropriate, professional standards.
- 8.6 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.
- 9.0 Discrimination and Harassment**
- 9.1 A Member shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.
- 9.2 A Member shall not use indecent, abusive, demeaning or insulting words, phrases or expressions toward any member of the public, another Member or staff. A Member shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, gender identity, gender expression, sexual orientation, marital status, family status, disability, age or record of offences for which a pardon has not been granted.
- 9.3 A Member shall comply with the Town's workplace harassment and violence policy.



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## 10.0 Improper Use of Influence

- 10.1 A Member shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.
- 10.2 A Member shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

## 11.0 Conflicts of Interest

- 11.1 A Member shall seek to avoid conflicts of interest, both pecuniary and non-pecuniary. A Member shall comply with the requirements of the *Municipal Conflict of Interest Act* with respect to obligations relating to pecuniary interests. A Member shall take proactive steps to mitigate any non-pecuniary conflicts of interest in order to maintain public confidence in the Town and its elected officials.
- 11.2 Members are encouraged to seek guidance from the Integrity Commissioner when they become aware that they may have a conflict of interest between their responsibilities to the public as a Member and any other pecuniary interest or non-pecuniary interest.

## 12.0 Council Policies and Procedures

- 12.1 A Member shall observe and adhere to the by-laws, policies, procedures and rules enacted and/or established from time to time by Council.

## 13.0 Election Activity

- 13.1 A Member is required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any of the Town's policies pertaining to elections. The use of the Town's resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.



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## 14.0 Communications and Media Relations

14.1 In order to foster respect for the decision-making process of Council, Members shall fairly and accurately communicate the decisions of Council, even if they disagree with its decision. Members may publicly express disagreement with a decision but shall do so in a respectful manner that does not belittle, ridicule or disrespect the decision or any Members who voted in favour of the decision.

14.2 Members shall not indicate, implicitly or explicitly, in any communications with the media that they speak on behalf of Council, unless they have been expressly authorized to do so by Council.

14.3 Members shall refrain at all times from making any comments of a disparaging nature about any Members, any municipal staff or any persons of the public.

## 15.0 Social Media

15.1 Members using social media shall:

- (a) ensure that all posts are accurate before uploading content to the internet;
- (b) obtain permission before posting any third-party content;
- (c) follow the same principles and guidelines as for other forms of communication by employing sound judgment and common sense, by acting with respect, dignity, courtesy and empathy manner and by adhering to all of the General Principles set out in the Code of Conduct; and
- (d) ensure that it is noted that communications that are Member and constituent-related do not necessarily reflect the existing or future opinions, views or decisions of the Council.

## 16.0 Respect for the Code of Conduct

16.1 A Member shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Town. A Member shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. A Member shall



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interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner. Member shall not act in reprisal or threaten reprisal in against the Integrity Commissioner or any person acting under the instructions of the Integrity Commissioner. The Integrity Commissioner is authorized to report any incidents of threats or reprisals to Council or the local board and may recommend penalties or remedial or corrections measures or actions.

- 16.2 A Member shall cooperate with requests for information during any investigations or inquiries under the Code of Conduct and shall not:
- (a) interfere with or obstruct an investigation by the Integrity Commissioner;
  - (b) destroy or damage documents or erase electronic communications; or
  - (c) refuse to respond to the Integrity Commissioner where a complaint has been filed under the Code of Conduct or any process for complaints adopted by the Town.

## 17.0 Declaration of Office

- 17.1 Members are expected to adhere to the specific declarations as well as the spirit of the promises they made to abide by various duties when they swore their declaration of office under section 232 of the *Municipal Act, 2001*.

## 18.0 Penalties for Non-Compliance with the Code of Conduct

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



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## 19.0 Remedial or Corrective Actions

19.1 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following corrective or remedial actions, and require that the Member:

- (a) provide a written or verbal apology;
- (b) return property or make reimbursement of its value or of money spent;
- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council; and
- (e) comply with any other remedial or corrective action or measure deemed appropriate by the Integrity Commissioner.

19.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 18.1 on its Member or any remedial or corrective actions under Section 19.1, the local board may impose such remedial or corrective actions as are set out in Section 19.1.

## 20.0 Legal Fees

20.1 A Member of Council is entitled to seek the advice of the Integrity Commissioner with respect to the Member's obligations under the Code of Conduct, any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*. As such, a Member is solely responsible for his or her own legal costs if they retain a lawyer or paralegal to provide counsel, advice or representation on any matter related to the Code of Conduct, any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, including, but not limited to, an investigation and the imposition of penalties or remedial or corrective actions recommended by the Integrity Commissioner and imposed by Council.



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## 21.0 Complaint Protocol

21.1 The Complaint Protocol is Appendix “B” to the Code of Conduct and applies to complaints and requests under the Code of Conduct and the *Municipal Conflict of Interest Act*.

## 22.0 Integrity Commissioner Annual Report

22.1 The Integrity Commissioner shall provide an Annual Report to Council in March in each year detailing its activities, including advice, education and investigations over the previous year and such periodic reports as the Integrity Commissioner consider may be necessary for the purposes of discharging its obligations to the Council and the Town.

## 23.0 Definitions

23.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) “CAO” means the Chief Administrative Officer of the Town;
- (b) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (c) “Clerk” means the Clerk of the Town;
- (d) “confidential information” means information or records that are in the possession, in the custody or under the control of the Town that the Town is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedure By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;
- (e) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular matter;



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- (f) “Council” means the council for the Town and includes, as the context may require and with all necessary modifications, any of the Town’s committees, agencies, boards or commissions, which are defined as local boards in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*;
- (g) “Deputy Mayor” means the member of council who holds the position of Deputy Mayor of the Town;
- (h) “frivolous” means of little or no weight, worth, importance or any need of serious notice;
- (i) “gift” means any kind of benefit, contribution or hospitality that has any financial or monetary value and includes the forms of benefits and hospitality that are set out in Section 7.0;
- (j) “Integrity Commissioner” means the person appointed by Council pursuant to section 223.3 of the *Municipal Act, 2001* to independently carry out the functions set out therein and such other functions as may be assigned by Council from time to time;
- (k) “local board” means any committee, agency, board or commission of the Town, which is a local board as defined in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*, and includes a joint board;
- (l) “Mayor” means the head of Council for the Town;
- (m) “media” includes any radio, television, newspaper, magazine, website, blog, social media, twitter feed or any other vehicles for the public dissemination of information, whether digital, electronic or print;
- (n) “meeting” means a regular, special or other meeting of Council or a committee of Council where:
- (i) a quorum of Members is present, and
  - (ii) Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of Council;



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- (o) “Member” means a Member of the Council for Town or a member of a local board, including a member of a joint board if that member is appointed by the Council to the joint board;
  - (p) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
  - (q) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
  - (r) “pecuniary” means relating to or consisting of money or having financial or economic value;
  - (s) “social media” means any third-party hosted technologies that allow the creation and exchange of user-generated content to share opinions, information and documents, and includes blogs, discussion boards and forums, microblogs, photo-sharing sites, social networks and video sharing services;
  - (t) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
  - (u) “staff” means the CAO and all officers, directors, managers, supervisors and all administrative staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents, consultants and volunteers acting in furtherance of the Town’s business and interest;
  - (v) “Town” means The Corporation of the Town of Cobourg; and
  - (w) “vexatious” means troublesome or annoying in the case of being instituted without sufficient grounds and serving only to cause irritation and aggravation to the person being complained of.





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## Scope

### 24.0 Application and Purpose

24.1 This Council and Staff Relationship Policy applies to all Members of the Council of the Town of Cobourg, including the Mayor, Deputy Mayor, and Councillors.


## Administration

The Chief Administrative Officer shall designate the Municipal Clerk to implement and administer the terms of this policy and shall establish related operating procedures as required.

## Cross Reference

Policy #

Procedure #

Bylaw 068-2019	Revision Description:	Signature/Municipal Clerk: 	Council Approval Date: Sep 30, 2019
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## APPENDIX "A"

### DISCLOSURE STATEMENT FOR GIFTS OR BENEFITS

Member's Name: \_\_\_\_\_

Gift Received or Nature of Benefit: \_\_\_\_\_

\_\_\_\_\_

Received From: \_\_\_\_\_

Date of Receipt: \_\_\_\_\_ Value or Estimate of Gift: \_\_\_\_\_

Please describe the circumstances under which the Gift or Benefit was received:

\_\_\_\_\_  
\_\_\_\_\_

Please describe your intentions with respect to the Gift or Benefit:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Do you anticipate transferring the Gift or Benefit described above to the Town or the local board?

Yes, immediately \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_  
Member's Signature

\_\_\_\_\_  
Date



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## APPENDIX "B" COMPLAINT PROTOCOL

### PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code of Conduct may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:
  - (a) document the incident(s) where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;
  - (b) advise another person about the concerns regarding the Member's actions, to corroborate the incident;
  - (c) advise the Member that the behaviour or activity appears to contravene the Code of Conduct;
  - (d) identify to the Member the specific provision(s) of the Code of Conduct that may have been contravened;
  - (e) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;
  - (f) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to settle or resolve the issue;
  - (g) if applicable:
    - (i) confirm to the Member that his or her response is satisfactory, or
    - (ii) advise the Member that his or her response is unsatisfactory;
  - (h) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.



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2. Individuals are strongly encouraged to pursue the Informal Complaint Procedure as the first means of remedying behaviour or activity of a Member that they believe violates the Code of Conduct.
  3. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator on issues relating to a complaint.
  4. The Informal Complaint Procedure is not a precondition or a prerequisite to pursuing the Formal Complaint Procedure related to the Code of Conduct set out in Part B.

## PART B - FORMAL COMPLAINT PROCEDURE

### Formal Complaints

1.
  - (1) Any individual who identifies or witnesses behaviour or activity by a Member that they reasonably believe contravenes the Code of Conduct may file a formal complaint to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code of Conduct in accordance with the following requirements:
    - (a) all complaints shall be in writing on the prescribed form (Formal Complaint Form # 1) and shall be dated and signed by an identifiable individual (the "complainant");
    - (b) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a supporting sworn affidavit setting out the evidence in full in support of the allegation; and
    - (c) Council may also file a complaint against any of its Members of an alleged contravention of the Code of Conduct by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.
  - (2) An elector, as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest (collectively, a "complainant") may file a formal request that the Integrity Commissioner carry out an inquiry concerning an alleged



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contravention of section 5, 5.1 or 5.2 of that statute by a Member in accordance with the following requirements:

- (a) all requests (also referred to as “complaints”) shall be in writing on the prescribed form (Complaint Form # 2), dated and signed by an identifiable individual (the “complainant”);
  - (b) the request shall include a statutory declaration attesting to the fact that:
    - (i) the complainant became aware of the contravention not more than six (6) weeks before the date of the complaint, or
    - (ii) in the case where the complainant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection 223.4.1(5) of the *Municipal Act, 2001*, that the complainant became aware of the alleged contravention during that period of time;
  - (c) Council may also pass a resolution requesting the Integrity Commissioner to undertake an inquiry respecting an alleged contravention of sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a Member and provide a statutory declaration as required by Section 1(2) to be sworn by a Member of Council.
- (3) Complainants who file a formal complaint under Sections 1(1) or 1(2) must provide a full and complete record of evidence to the Integrity Commissioner who is under no obligation whatsoever to, but may, seek additional information to supplement or complete the evidentiary record to substantiate or support the allegations set out in the complaint or request.

## Filing of Complaint and Classification by Integrity Commissioner

2.

- (1) The complaint may be filed with:
  - (a) the Clerk by hard copy or by e-mail, or
  - (b) directly with Integrity Commissioner by a sealed hard copy or by email,to the addresses and/or email address(es) set out on the Town’s website.



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- (2) The Integrity Commissioner shall initially classify the complaint to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3 or whether it is a request under sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

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

3.

- (1) If the complaint, including the supporting affidavit or the statutory declaration, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint relates to matters addressed by other legislation under another of the Town's procedure, policy or rule, or the request in relation to sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall advise the complainant in writing as follows:

### ***Criminal Matter***

- (a) if the complaint is, on its face, an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that:
- (i) the Integrity Commissioner will refer it to the appropriate police service, or
  - (ii) the complainant may pursue it with the appropriate police service if the complainant wishes to pursue any such allegation;

### ***Municipal Freedom of Information and Protection of Privacy Act***

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

### ***Other Procedure, Policy or Rule Applies***

- (c) if the complaint appears to fall within the scope of another procedure, policy or rule of the Town, the complainant shall be advised to pursue the matter under



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such procedure, policy or rule with the appropriate municipal official or staff member; and

### ***Lack of Jurisdiction***

- (d) if the complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner (for example, it relates to a decision of Council or a local board as a whole and not one or more individual Members), the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.
- (2) If the complaint with respect to non-compliance with the Code of Conduct or the request in relation to section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, relates to any of the following matters, the Integrity Commissioner shall advise the complainant in writing as follows:

### ***Matter Already Pending***

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

### ***Similar Matter Already Pending***

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

### ***Other Ethical Code or Policy Applies***

- (c) if the complaint is in relation to a matter which is governed by a code of conduct, ethical code or similar procedure or policy of another body or entity which also



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governs the Members (for example, another board, body or committee to which the Member has been appointed), the Integrity Commissioner shall consider the most appropriate forum for the complaint and may, in his/her sole discretion, defer consideration of the matter pending any determination made by the other body or entity and shall so advise the complainant and, if necessary, the Member.

- (3) Nothing in Section 3 precludes the Integrity Commissioner from reporting to Council any matter summarily dismissed or not otherwise investigated.

## Limitation Period

4.

- (1) The Integrity Commissioner shall not accept a complaint under the Code of Conduct for which the event giving rise to the complaint occurred or came to the attention of the complainant more than six (6) months prior to the date of the filing of the complaint. The complainant must establish that the event giving rise to the complaint occurred and/or came to the complainant's attention within six (6) months of the complaint being filed in accordance with Section 2.
- (2) The Integrity Commissioner shall not accept a request relating to section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* except in accordance with the requirements of subsections 8(2)-(6) of that statute and section 223.4.1 of the *Municipal Act, 2001*.

## Refusal to Conduct Investigation

5. The Integrity Commissioner has a discretion as to whether to carry out an investigation. If the Integrity Commissioner is satisfied, after considering the information contained in the complaint, that a complaint:
- (a) is frivolous or vexatious,
  - (b) is not made in good faith,
  - (c) constitutes an abuse of process,
  - (d) discloses no grounds or insufficient grounds for an investigation, or
  - (e) does not warrant a full investigation,





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the Integrity Commissioner shall not be required to conduct an investigation and may summarily dismiss the complaint, and, where this becomes apparent during the course of an investigation, the Integrity Commissioner shall terminate the inquiry and provide notice to the complainant and, if necessary, to the Member. The Integrity Commissioner may report the refusal to conduct an investigation to Council.

## Opportunities for Resolution

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

## Investigation

7.
  - (1) The Integrity Commissioner may proceed as follows, except where the Integrity Commissioner has a full factual record and believes, in his or her sole discretion, that no additional information is required, or where otherwise required by the *Public Inquiries Act, 2009*, or where the Integrity Commissioner has not otherwise terminated the inquiry:
    - (a) provide the Member with an outline of the complaint with sufficient particularity to allow the Member to understand the complaint against him or her but the Integrity Commissioner shall not have any obligation to disclose:
      - (i) the identity of the complainant, or
      - (ii) the identity of any witnesses set out in the complaint or persons that are questioned/interviewed by the Integrity Commissioner,unless it is essential for the Member to adequately respond to the complaint, which determination shall be made in the Integrity Commissioner's sole and absolute discretion;
    - (b) request that the Member provide a written response to the allegations in the complaint to the Integrity Commissioner within seven (7) days;



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- (c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant to the Integrity Commissioner within seven (7) days; and
  - (d) extend the timelines set out above if the Integrity Commissioner deems it necessary to do so in his or her sole and absolute discretion.
- (2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Town's computers and servers, and may enter any municipal work location relevant to the complaint for the purpose of investigation and potential resolution.
  - (3) The Integrity Commissioner may, but is under no obligation, to provide the Member with a draft of the proposed draft report on the complaint.
  - (4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member unless the Member has had an opportunity to comment to the Integrity Commissioner in writing on any preliminary or proposed finding(s).
  - (5) The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in the report to Council.
  - (6) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the formal complaint investigation.
  - (7) The Integrity Commissioner is entitled to make such additional inquiries and provide such additional reports to Council where necessary and as required to address any instances of non-compliance with any decision of Council including the failure to comply with any penalties or corrective measure or actions imposed by Council.
  - (8) The Integrity Commissioner shall retain all records related to the complaint and investigation but may provide copies of certain records, in confidence, to the Town's administrative staff who are required to ensure that any such records are securely and confidentially retained.



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## No Complaint Prior to Municipal Election

8.

- (1) Notwithstanding any other provision of this Complaint Protocol, no complaint may be filed with the Integrity Commissioner, no report shall be made by the Integrity Commissioner to Council during the period of time starting on nomination day for a regular municipal election year, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on the voting day in a regular election as set out in section 5 of the *Municipal Elections Act, 1996*.
- (2) If the Integrity Commissioner has received a complaint and has commenced an inquiry but has not completed the inquiry before nomination day in a regular municipal election year, the Integrity Commissioner shall terminate the inquiry on nomination day but may commence an inquiry in respect of the same complaint if within six (6) weeks after the voting day in a regular municipal election the individual who made the request makes a written request to the Integrity Commissioner in accordance with subsection 223.4(8) of the *Municipal Act, 2001*.

## Advice Provided to Member by Integrity Commissioner

9.

- (1) Subject to Section 9(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code of Conduct in any subsequent consideration of the conduct of the Member in the same matter provided that the Member fully disclosed in writing all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.
- (2) If the Integrity Commissioner applies to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the Member contravened section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, the Member is entitled to advise the judge of any written advice given by the Integrity Commissioner provided that the Member fully disclosed in writing all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.



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- (3) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code of Conduct, the *Municipal Conflict of Interest Act* or generally at law with respect to any matter that the Integrity Commissioner is investigating or reviewing with respect to the Member, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of any investigation or review that may impact the Member's rights under the Code of Conduct, the *Municipal Conflict of Interest Act* or generally at law.

## Authority to Abridge or Extend

10.

- (1) Notwithstanding any requirement, obligation or timeline, set out in the Code of Conduct or this Complaint Protocol, the Integrity Commissioner shall retain the right to abridge or extend any provision therein in the public interest.

## Investigation Report

11.

- (1) The Integrity Commissioner shall report to the complainant and the Member no later than ninety (90) days after the official receipt of any complaint under the Code of Conduct. If the investigation process is anticipated to or takes more than ninety (90) days, the Integrity Commissioner shall provide an interim report to Council and must advise the parties of the approximate date the report will be available. The Integrity Commissioner may also, at his or her discretion, advise any witnesses or other persons of the approximate date the report will be available.
- (2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended remedial or corrective measure or action.
- (3) The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of the report, in strict confidence until the report is publicly released. The Member shall have the right to address the report if it considered by Council.



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- (4) Where the complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings but may do so at his/her discretion and may also include such information as he/she deems necessary in a report or as part of an annual or other periodic report by the Integrity Commissioner.
  - (5) The Integrity Commissioner shall complete the investigation under the *Municipal Conflict of Interest Act* no later than one hundred and eighty (180) days after the official receipt of any complaint validly made under Section 1(2) of this Part.

## Findings

12.

- (1) If the Integrity Commissioner determines that:
  - (a) there has been no contravention of the Code of Conduct, or section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, or
  - (b) a contravention occurred but:
    - (i) the Member took all reasonable measures to prevent it, including having sought and followed the advice of the Integrity Commissioner;
    - (ii) it was trivial,
    - (iii) it was committed through inadvertence, or
    - (iv) it resulted from an error in judgment made in good faith,

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*, including but not limited to, a recommendation of no penalty.

- (2) If the Integrity Commissioner:
  - (a) considers it appropriate, once he or she has concluded the investigation under Section 1(2) of this Part, he or she may 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 that statute; or



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- (b) does not proceed with an application to the judge, he or she shall so advise the complainant and the Member in writing.
- (3) The Integrity Commissioner shall provide a written report to Council providing the reasons for his or her decision under Section 12(2).

## Report to Council

13.

- (1) Upon receipt of a report from the Integrity Commissioner with respect to the Code of Conduct, the Clerk shall place the report on the next regular agenda of Council for consideration by Council and Council must consider the report at that meeting and may accept or refuse the recommendations set out in the report and accept, refuse or vary any penalties or sanctions or any remedial or corrective actions contained in the report.
- (2) A report from the Integrity Commissioner may also be considered by Council in advance of its next regular meeting should Council agree to hold a special or other meeting before its next regular meeting to consider the report.

## Duty of Council

14. Council shall consider and make a determination on the Integrity Commissioner's report under Section 13 at the same meeting at which the report is tabled.

## Public Disclosure

15.

- (1) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where it does not interfere with the course of any investigation, except as required by law and as required by this Complaint Protocol.
- (2) The Integrity Commissioner shall retain all records related to the complaint and investigation although copies may be provided to the Town's administrative staff, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.



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- (3) The identity of the Member who is the subject of the complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council. The identity of the complainant and of any other person, including any witnesses, may be disclosed if deemed appropriate and necessary by the Integrity Commissioner or if consented to by the complainant or any other person.
  - (4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Clerk.

## **Delegation by Integrity Commissioner**

16. The Integrity Commissioner may delegate in writing to any person, other than a Member of Council, any of the Integrity Commissioner's powers and duties under Part V.1 of the *Municipal Act, 2001*.

## **Complaint Protocol Applicable to Local Boards and Members**

17. The provisions of this Complaint Protocol shall apply, with modifications as necessary, to all local boards of the Town and their members.



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## Code of Conduct — Formal Complaint Form # 1

### AFFIDAVIT

I, \_\_\_\_\_ (first and last name),  
of the Town of \_\_\_\_\_ in the Province of Ontario.

#### MAKE OATH AND SAY (or AFFIRM):

1. I reside at: \_\_\_\_\_ (full address) and  
may be contacted at telephone: \_\_\_\_\_ and email: \_\_\_\_\_.

2. I have reasonable and probable grounds to believe that:

\_\_\_\_\_ (name of Member),

a member of the Council of The Corporation of the Town of Cobourg or a local board of the Town has contravened section(s) \_\_\_\_\_ of the Code of Conduct of the Town of Cobourg. The particulars of which are attached hereto.

3. Facts constituting the alleged contravention (use separate page if required)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This affidavit is made for the purpose of requesting that this matter be reviewed and/or investigated by the Town's Integrity Commissioner and for no other improper purpose.

SWORN (or AFFIRMED) before me at the )  
the \_\_\_\_\_ of \_\_\_\_\_ on )  
\_\_\_\_\_ (date) )  
\_\_\_\_\_ )

\_\_\_\_\_  
(Signature)

A Commissioner for taking affidavits etc.

Please note that signing a false affidavit may expose you to prosecution under ss. 131 and 132 or 134 of the *Criminal Code*, R.S.C. 1985, c. C-46 and also to civil liability for defamation.





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## *Municipal Conflict of Interest Act – Complaint Form # 2*

### STATUTORY DECLARATION

I, \_\_\_\_\_ (first and last name), of the Town of \_\_\_\_\_ in the Province of Ontario.

I SOLEMNLY DECLARE THAT:

1. I reside at: \_\_\_\_\_ (full address) and may be contacted at telephone: \_\_\_\_\_ and email: \_\_\_\_\_.

2. I have reasonable and probable grounds to believe that:

\_\_\_\_\_ (specify name of Member), a member of the Council of The Corporation of the Town of Cobourg or a local board of the Town, has contravened section(s) \_\_\_\_\_ of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50. The particulars of which are attached hereto.

3. I became aware of the facts constituting the alleged contravention not more than six (6) weeks ago and they comprise the following: (use separate page if required)

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

DECLARED before me at the \_\_\_\_\_ )  
the \_\_\_\_\_ of \_\_\_\_\_ )  
on \_\_\_\_\_ (date) )  
\_\_\_\_\_ )

\_\_\_\_\_  
(Signature)

A Commissioner for taking affidavits etc.

Please note that signing a false declaration may expose you to prosecution under ss. 131 and 132 or 134 of the *Criminal Code*, R.S.C. 1985, c. C-46 and also to civil liability for defamation.