

BY-LAW NUMBER 44-19

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THE CORPORATION OF THE COUNTY OF BRANT

To establish a Code of Conduct for Members of Council, Local Boards and Advisory Committees

WHEREAS the Municipal Act 2001, as amended, requires that every Council shall adopt a Code of Conduct for members of Council, local boards and advisory committees;

AND WHEREAS the Council of the Corporation of the County of Brant is desirous of amending its Code of Conduct to reflect changes in legislation and provide clarification to the policy;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT HEREBY ENACTS as follows:

1. **THAT the County of Brant Code of Conduct, attached hereto, be and is hereby approved;**
2. **THAT This by-law shall come into force and take effect upon the final passing thereof.**

READ a first and second time, this 26th day of March, 2019.

READ a third time and finally passed in Council, this 26th day of March, 2019.

THE CORPORATION OF THE COUNTY OF BRANT

David Bailey, Mayor

Heather Boyd, Clerk

*Note - signed version is available in the County records.



County of Brant Code Of Conduct For Members of Council, Local Boards and Advisory Committees

Policy Statement:

The purpose and intent of the Council Code of Conduct is to establish standards of conduct for Members of Council, Local Boards and Advisory Committee Members in the individual conduct of their Official Duties.

The Code represents general standards. The Code does not replace Member's roles, responsibilities, actions and behaviours required by various statutes, by-laws and policies.

Statements of Principle:

A written Code of Conduct helps to ensure that the Members of Council, Local Boards and Advisory Committees share a common basis of acceptable conduct. These standards are designed to supplement the legislative parameters within which the Members must operate. These standards are intended to enhance the public's confidence that the County of Brant's elected and appointed officials operate from a basis of integrity, justice and courtesy.

Specific Policy Requirements

Section 1: Overview

- 1.1 The County of Brant's Code of Conduct is a general standard that augments the provincial laws and municipal policies and by-laws that govern the Members' conduct.

Section 2: Statutory Provisions Regulating Conduct

- 2.1 This Code of Conduct operates along with, and as a supplement to, the existing statutes governing the conduct of Members. Six pieces of provincial legislation govern the conduct of Members of Council, Local Boards and Advisory Committees those being:
 - a) Municipal Act, 2001, S.O. 2001, c. 25;
 - b) Municipal Conflict of Interest Act, R.S.O. 1990, c.M. 50, [MCIA];
 - c) Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M. 56, [MFIPPA];
 - d) Municipal Elections Act, 1996, S.O. 1996, c. 32;
 - e) The Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2009; and
 - f) Ontario Human Rights Code.

2.2 The Criminal Code of Canada also governs the conduct of Members.

Section 3: Application

3.1 This Code of Conduct and the references within it, shall apply to all Members of Brant County Council and Members of Local Boards and Advisory Committees, including those citizens and/or Employees appointed by County Council.

Section 4: Definitions

4.1 For the purpose of this Code of Conduct the following definitions apply:

- a) "Advisory Committee Member" means citizens and/or Employee appointed by County Council to any Committee of Council;
- b) "Child" means a child born within or outside a 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) "County" means the Corporation of the County of Brant;
- d) "County property" means items, services or resources which are the property of the County, including but not limited to: materials, equipment, vehicles, facilities, technology, County-developed computer programs or technological innovations, databases, intellectual property, County-owned images, logos, coat of arms, and supplies;
- e) "Clerk" means the Clerk of the Corporation of the County of Brant;
- f) "Code" means this Code of Conduct as it applies to Members of Council, Local Boards and/or Advisory Committees;
- g) "Complaint" means an alleged contravention of this Code and includes a request for an inquiry into a contravention of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act, except where otherwise specifically noted in this Code;
- h) "Complainant" means a person making a Complaint under this Code and includes a person requesting an inquiry into a contravention of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act, except where otherwise specifically noted in this Code;
- i) "Confidential Information" includes information in the possession of the County that the County is either prohibited from disclosing, or is required to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), or other legislation. "Confidential information" also includes:
 - i) information received in confidence from third parties of a corporate, commercial, scientific or technical nature;
 - ii) information that concerns matters pertaining to personnel, labour relations, litigation;
 - iii) information that concerns matters pertaining to property acquisition or disposition;
 - iv) the security of property of the municipality or a Local Board;

- v) and any other information lawfully determined by the Clerk or the Council to be confidential, or required to remain or be kept confidential by legislation or order;
 - vi) information that is subject to solicitor-client privilege;
 - vii) information that is deemed to be Personal Information;
- j) "Corporation" means the Corporation of the County of Brant;
 - k) "Council" means the Council of the Corporation of the County of Brant;
 - l) "Employee" means a person employed by the Corporation of the County of Brant or a Local Board, including those employed on a personal services contract, and volunteers, but does not include Members;
 - m) "Frivolous" means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense;
 - n) "Gifts and Benefits" means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment;
 - o) "Good Faith" means in accordance with standards of honesty, trust and sincerity;
 - p) "Hospitality" means instances where there is entertainment of or by outside parties for the furtherance of municipal business;
 - q) "Integrity Commissioner" means the Integrity Commissioner appointed by Council pursuant to the Municipal Act, 2001;
 - r) "Local Board" means a local board as defined in section 223.1 of the Municipal Act, 2001;
 - s) "Member" means a Member of Council, or a Local Board or an Advisory Committee, unless the context otherwise requires;
 - t) "Member of Council" means the Mayor or a Ward Councillor of the Corporation of the County of Brant;
 - u) "Office" means the authority and duties attached to the position of being an elected Member of Council or appointed Member of an Advisory Committee or Board;
 - v) "Official Duties" means the public duties of a Member, and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the County or Local Board's jurisdiction, and which are done for the purpose of providing good government with respect to those matters;
 - w) "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;
 - x) "Pecuniary Interests" are interests that have a direct or indirect financial impact or as defined under the current Municipal Conflict of Interest Act as amended from time to time, that include:
 - i. any matter in which the Member has a financial interest;

- ii. any matter in which the Member is a shareholder, director or senior officer, of or holds a controlling interest in a corporation that does or does not offer its securities to the public, and such corporation has a financial interest;
 - iii. any matter in which the Member is a partner of a person or is in the employment of a person that has a financial interest; and
 - iv. any matter in which a Parent, Spouse, same sex partner or any Child of the Member has a financial interest, if known to the Member.
- y) “person” includes a corporation, partnership, association and any other entity, as the context allows;
- z) “Personal Benefit” means forms of advantage other than financial, such as seeking an appointment, promotion or transfer within the Corporation on behalf of a family Member and includes the Private Interests of a Member;
- aa) “Personal Information” means recorded information about an identifiable individual, including:
 - i) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
 - ii) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
 - iii) any identifying number, symbol or other particular information assigned to the individual;
 - iv) the address, telephone number, fingerprints or blood type of the individual;
 - v) the personal opinions or views of the individual except if they relate to another individual;
 - vi) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
 - vii) the views or opinions of another individual about the individual; and
 - viii) the individual’s name if it appears with other Personal Information relating to the individual or where the disclosure of the name would reveal other Personal Information about the individual;

And also means any information that is of a personal nature to County Employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Corporation or could give the person to whom it is disclosed an advantage.
- bb) “Private Interest” means all of the interests or activities of a Member not included in the term defined as “Official Duties”;
- cc) “Spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- dd) “Vexatious” means without reasonable or probable cause or excuse.

Section 5: General Standards of Conduct

- 5.1. Members are responsible for making honest statements. No Member shall make a statement when they know that statement is false. No Member shall make a statement with the intent to mislead Council, Employees or the public.
- 5.2 Members shall at all times serve their constituents in a conscientious and diligent manner.
- 5.3 Members shall conduct their dealings with each other, Employees and the public in ways that maintain public confidence in the Office to which they have been elected, are open and honest, focus on issues rather than personalities, and shall avoid aggressive, offensive or abusive conduct.
- 5.4 Members shall be committed to performing their functions with integrity, accountability and transparency, avoiding improper use of influence of their Office, and conflicts of interest, both apparent and real.
- 5.5 Members shall perform Official Duties and arrange their public affairs in a temperate manner that promotes public confidence and respect and will bear close public scrutiny.
- 5.6 It shall be the duty of all Members to abide by all applicable legislation, policies and procedures pertaining to their position as a Member.
- 5.7 Members shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of Official Duties to the County or Local Board.
- 5.8 Every Member in exercising his or her powers and in discharging his or her Official Duties shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament of Canada and the Legislative Assembly of Ontario, as well as the laws and policies adopted by the County Council. In so doing every Member shall:
 - a) Seek to advance the common good of the County;
 - b) Truly, faithfully and impartially exercise his or her Office to the best of his or her knowledge and ability;
 - c) Exercise care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
 - d) Exercise his or her powers only for the purpose for which they were intended; and
 - e) Competently exercise his or her Office by educating themselves either formally or informally, in matters pertaining to their Official Duties.

Responsibilities of Members of Council

- 5.9 Council as a whole has the authority to approve budget, policy or processes, including the Terms of Reference and procedures for committees. Authority to represent or act on behalf of Council, including through a committee, can only be delegated by Council or through law.
- 5.10 Council is responsible for and dedicated to providing good and effective government for the public in an open, accountable and transparent manner.

- 5.11 A fiduciary relationship exists between the Council and inhabitants of the municipality.
- 5.12 Every Member shall act in accordance with his or her Declaration of Office.
- 5.13 Members of Council:
- a) May not impugn or malign a debate or decision or otherwise erode the authority of Council;
 - b) When appointed to committees and other bodies as part of their duties must make every effort to participate diligently in these bodies with Good Faith and care;
 - c) Must uphold the law and conduct themselves with the highest degree of ethical behaviour and integrity;
 - d) Must avoid conflicts of interest;
 - e) Must seek to advance the public interest with honesty, and treat Members of the public and Employees with dignity, understanding and respect;
 - f) Must not make statements known to be false or make a statement with the intent to mislead Council, Employees or the public;

Members of Local Boards and Advisory Committees

- 5.14 Members of the public appointed to Local Boards or Advisory Committees are appointed at the pleasure of Council. They do not hold Office nor do they represent a constituency within the community nor do they represent Council, or the Local Board or the Advisory Committee unless mandated to do so. Members of the public appointed to Local Boards and Advisory Committees must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.
- 5.15 Local Boards and Advisory Committees operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.
- 5.16 No Local Board Member or Advisory Committee Member may act beyond the mandate of the Local Board or Advisory Committee granted by Council or legislation.

Section 6: Respect for Decision Making Process

- 6.1 Members shall accurately and adequately communicate the decisions of Council, Local Boards or Advisory Committees such that respect for the decision and decision-making process is fostered.
- 6.2 Members shall not attempt directly or indirectly, to influence the decision-making process, as it relates to the award of contracts or settlement of claims. This includes but is not limited to direct or indirect personal contact or interaction with the parties administering or directly involved in such processes.

Section 7: Avoidance of Waste

- 7.1 Members shall avoid waste, abuse and extravagance in the provision or use of public resources or any other County Property.

Section 8: Gifts and Benefits

- 8.1 No Member shall accept a fee, advance, gift or Personal Benefit that is connected directly or indirectly with the performance of his or her duties of Office, unless permitted by one or more of the exceptions listed in paragraph 8.3.
- 8.2 For these purposes, a fee, advance, gift or benefit provided with the Member's knowledge to a Member's Spouse, Child or Parent or to an employee of a Member that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.
- 8.3 Subject to the limitations described in paragraph 8.4 the following are recognized as exceptions:
- a) Compensation or benefit authorized by law;
 - b) Such gifts or benefits that normally accompany the responsibilities of Office and are received as an incident of protocol or social obligation;
 - c) A political contribution otherwise authorized and reported as required by law in the case of Member running for Office;
 - d) Services provided without compensation by persons volunteering their time;
 - e) A suitable memento of a function honouring the Member;
 - f) Food, lodging, transportation and entertainment lawfully provided by Provincial, regional and local governments or boards or political subdivisions of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or events where the Member is speaking or attending in an official capacity;
 - g) Food and beverages consumed at banquets, receptions or similar events, if:
 - i) Attendance serves a legitimate business purpose; and
 - ii) The person extending the invitation or a representation of the organization is in attendance.
 - h) Communication to the offices of a Member, including unpaid subscriptions to newspapers and periodicals;
 - i) A sponsorship or donation for a community event organized or run by a Member, or a third party on behalf of a Member, provided a municipal policy for such activities is adopted by the Council, and subject to the limitations set out in any such policy.
- 8.4 Except in the case of exceptions 8.3 (a), (c), (f) and (i), a Member may not accept a single Gift or Benefit worth in excess of \$250, or a total of Gifts and Benefits from one source during a calendar year worth in excess of \$250.

Section 9: Confidential Information

- 9.1 No Member shall disclose or release or publish by any means to any member of the public, or in any way divulge any Confidential Information, including Personal Information

or any aspect of deliberations acquired by virtue of their Office, in either oral or written form, except when required by law or authorized by Council resolution to do so.

- 9.2 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council, Local Board resolution (if so empowered), or required by law to do so.
- 9.3 Members shall not use Confidential Information including information that they have knowledge of by virtue of their position that is not in the public domain, including e-mails and correspondence from other Members, or third parties, for personal or private gain, or for the gain of relatives or any person or corporation or cause detriment to the County, Council, Local Board, or others. As one example, no Member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting County business.
- 9.4 Under the County of Brant Procedural By-law, as amended from time to time, a matter that has been discussed at a closed meeting remains confidential. Members have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members shall not either directly or indirectly, release, make public or in any way divulge the content of any such matter, or the substance of deliberations, of the closed meeting including memorandums and staff reports that are distributed for consideration during the closed meeting to anyone, unless specifically authorized by County Council resolution or required by law.
- 9.5 Members of Council shall not access or attempt to gain access to Confidential Information in the custody of the County unless it is necessary for the performance of their duties and not prohibited by Council policy or bylaw.
- 9.6 Members are only entitled to information in the possession of the County that is relevant to matters before the Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other Member of the community and must follow the same processes as any private citizen. As one example, no Member should have access to documents or receive any information related to a particular procurement process while the process is ongoing.

Section 10: Use of County Property, Services and Other Resources

- 10.1 No Member of Council shall use, or permit the use of, County Property, including land, facilities, equipment, supplies, services, information, Employees, funds allocated for Member expenses, or other resources (for example, County-owned materials, computers, networks, websites, Corporate transportation) for any purposes or activities other than the business of the Corporation. Nor should any Member seek or obtain Personal Benefit or financial gain from the use or sale of County Property, including Confidential Information, County-developed intellectual property (for example, inventions, creative writings, computer programs and drawings), technical innovations, County owned images, logos, coat of arms, or other items capable of being patented or copyrighted, since all such property remains exclusively that of the County.
- 10.2 The County of Brant licenses the use of computer software from a variety of vendors. The County of Brant does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable license. This policy applies to the use of mobile phones (cell phones, smart phones), personal computers, tablets, fax machines, printers, etc.

Section 11: Election Campaign Work

- 11.1 Members are required to follow the provisions of the Municipal Elections Act, 1996.
- 11.2 No Member shall use the property, facilities, equipment, supplies, services or other resources of the County (including Councillor newsletters, telephone system, and Councillor websites linked through the County's website) for any election campaign or campaign-related activities. No Member shall undertake campaign-related activities on County property. No Member shall use the services of persons during hours in which those persons receive any compensation from the County.

Section 12: Municipal Conflict of Interest Act

- 12.1 Members shall conduct themselves in accordance with the Municipal Conflict of Interest Act as amended from time to time.
- 12.2 The Integrity Commissioner has the right to respond to requests for inquiry into contraventions of sections 5, 5.1, and 5.2 of the Municipal Conflict of Interest Act in accordance to the provisions of this Code and that Act.

Section 13: Improper Use of Influence

- 13.1 No Member shall use the influence of her or his Office for any purpose other than for the lawful exercise of her or his Official Duties.
- 13.2 No Member shall use his or her Office or position as a Member to improperly influence the decision of another person for the Member's private advantage, or of that Member's Parent, Child, Spouse, staff member, friend, or associate (business or otherwise). No Member shall attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their Official Duties. No Member shall hold out the prospect or promise of future advantage through the Member's supposed influence within Council, in return for any action or inaction.
- 13.3 For the purposes of this provision "private advantage" does not include a matter:
- a) That is of general application;
 - b) That affects a Member of Council, his or her Parents, Children, Spouse, staff Members, friends, or associates, business or otherwise as one of a broad class of persons; or
 - c) That concerns the remuneration or benefits of a Member of Council as authorized by Council.

Section 14: Business Relations

- 14.1 No Member shall act as a paid agent before Council, its committees, or an agency, board or commission of the County except in compliance with the terms of the Municipal Conflict of Interest Act as amended from time to time.
- 14.2 A Member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other Personal Benefit.

Section 15: Expenses

- 15.1 Members shall comply with the provisions of the Council Remuneration By-law, as amended from time to time, for the reimbursement of expenses.

Section 16: Conduct Respecting Current and Prospective Employment

- 16.1 No Member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the County.

Section 17: Conduct at Meetings of Council

- 17.1 Members shall conduct themselves in a civil manner with decorum at Council, Committee and other meetings in accordance with the provisions of the County of Brant's Procedural By-law, this Code, and other applicable laws as amended from time to time.

Section 18: Conduct Respecting Employees

- 18.1 Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategic priorities through the work of Employees.
- 18.2 Employees have an obligation to recognize that Members of Council have been duly elected to serve the residents of the County of Brant and respect the role of Council in directing the actions of the County.
- 18.3 Under the direction of senior municipal administration, and in accordance with the decisions of Council, Employees serve the municipal corporation as a whole. Council directs employees through its decisions as recorded in the minutes and resolutions of Council. Members have no individual capacity to direct employees to carry out particular functions.
- 18.4 Inquiries of Employees from Members should be directed to the Chief Administrative Officer or the appropriate senior manager.
- 18.5 Only Council as a whole and no single Member including the Mayor has the authority to direct employees, approve budget, policy, committee processes and other such matters, unless specifically authorized by Council.
- 18.6 Members shall be respectful of the role of Employees to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council. Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of Employees, and all Members shall show respect for the professional capacities of the Employees of the County.
- 18.7 Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. Similarly, Employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed for their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence Employees in the performance of such duties and obligations.
- 18.8 Certain Employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.
- 18.9 No Member shall compel an Employee to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any Member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any Employee with the

intent of interfering with that person's duties, including the duty to disclose improper activity.

Section 19: Discreditable Conduct (Interpersonal Behaviour)

- 19.1 Every Member has the duty to treat Members of the public, one another and Employees appropriately and without abuse, bullying or intimidation. All Members of Council shall ensure that the Council work environment is free from discrimination and harassment.
- 19.2 The following statutes and policies apply to Members:
- a) Ontario Human Rights Code
 - b) Occupational Health and Safety Act
 - c) County of Brant's Prevention of Violence in the Workplace Policy, and
 - d) County of Brant's Workplace Harassment Policies addressing a harassment-free and discrimination-free workplace adopted by Council.
- 19.3 More specifically, Members shall abide by the provisions of the Ontario Human Rights Code, as amended, and, in doing so, shall treat every person, including other Members, Employees, and individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 19.4 Further, in accordance with the Ontario Human Rights Code, as amended, Members 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, family status, or disability.
- 19.5 Members shall not harass other Members, Employees, and individuals providing services on a contract for service, students on placements, and the public, where harassment means engaging in a course of Vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 19.6 Without limiting the generality of the foregoing, Members shall not:
- a) Speak in a manner that is discriminatory to any individual, based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.
 - b) Make indecent, abusive, insulting or inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
 - c) Display materials or transmit communications that are inappropriate, offensive, insulting or derogatory;
 - d) Make threats or engage in any abusive activity or course of conduct towards others;
 - e) Vandalize the personal property of others;
 - f) Commit assault of any kind, including making unwanted physical contact, including touching, patting, or pinching; or

- g) Refuse to converse or interact with anyone based on any ground listed in the Human Rights Code, as amended.
- 19.7 Harassment of any person, including an Employee, which occurs in the course of, or is related to, the performance of Official Duties by Members is subject to this Code.
- 19.8 Employees are also entitled to pursue a Complaint against a Member under the Workplace Harassment Policy or Violence in the Workplace Policy. In that case, the jurisdiction of the Integrity Commissioner is suspended and the Workplace Harassment Policy will govern the investigation and remedy in the event a breach of that policy is found to have occurred, subject to section 19.9 below.
- 19.9 Where in the opinion of any person properly engaged to investigate a Workplace Harassment or Violence in the Workplace complaint referred to in section 19.8 above, that there are grounds to issue discipline against a Member for violation of this Code, that person may file a Complaint under this Code on behalf of the Employee and the Integrity Commissioner will review the Complaint according to sections 23 et seq of this Code. The Integrity Commissioner is entitled to adopt the process and / or findings of the person investigating the Workplace Harassment or Violence in the Workplace complaint as if they were the Integrity Commissioner's own process and / or findings or may commence an independent investigation.
- 19.10 The timelines for filing a formal Complaint in section 23 will not apply in respect of section 19.9 above as long as the Complaint under the Workplace Harassment or Violence in the Workplace policy was filed in accordance with the time limits in the respective policy.

Section 20: Failure to Adhere to Council Policies and Procedures

- 20.1 A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by County Council.

Section 21: Reprisals and Obstruction

- 21.1 Members of Council shall respect the integrity of the Code of Conduct, and inquiries and investigations conducted under it and shall co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat of reprisal against a Complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner in applying or furthering the objectives or requirements of this Code or in the carrying out of his or her responsibilities (as, for example, providing inaccurate or misleading information to the Integrity Commissioner, refusing to answer inquiries or by the destruction of (records) documents or the erasing of electronic communications).

Section 22: Compliance with the Code of Conduct

- 22.1 Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the Criminal Code of Canada or for failing to declare a conflict of personal interest under the Municipal Conflict of Interest Act.
- 22.2 In addition to any other consequence imposed by law, Members found to have breached this Code may be subject to discipline, including a verbal or written reprimand or, where applicable, suspension of remuneration paid for his or her services as a Member, for a period of up to ninety (90) days.

- 22.3 The Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code.

Section 23: Procedure – Complaints under this Code. Including Requests for Inquiries into Contraventions of the Municipal Conflict of Interest Act.

- 23.1 Any organization or individual, including Members of the public, County Employees, and Members, who has reasonable grounds to believe that a Member has breached a provision of the Code, may proceed with a Complaint under section 23.7 or 23.8 below.
- 23.2 Any elector or a person demonstrably acting in the public interest who believes that a Member has acted in a manner contrary to sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act, may apply to the Integrity Commissioner to conduct an inquiry in the same manner as Complaints under section 23.1 of this Code.
- 23.3 Notwithstanding section 23.2 above, where the Integrity Commissioner believes that a Member has acted in a manner contrary to sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act, the Integrity Commissioner may conduct an inquiry in the same manner as Complaints under sections 24 and 25 of this Code.
- 23.4 Except where otherwise noted, requests for inquiry into contraventions of the Municipal Conflict of Interest Act will be referred to as Complaints and be subject to the same procedural rules.
- 23.5 Complaints and requests for inquiries must be submitted within six weeks of the matter becoming known to the organization or individual and no more than six months after the alleged violation occurring. The only exception to this rule is where the Complainant became aware of the alleged contravention within the period of time starting six weeks before nomination day for a regular election and ending on voting day for that election and the Complainant submits the Complaint no later than six weeks after voting day for that election. No action will be taken on a Complaint received beyond these deadlines.
- 23.6 A Complainant does not have to pursue the informal Complaint process set out in section 23.7 prior to proceeding with the formal Complaint process set out in section 23.8.

Informal Complaints

- 23.7 Any organization or individual who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code or the Municipal Conflict of Interest Act may address their concerns in the following manner:
- a) Advise the Member that their behaviour or activity contravenes the Code or the Municipal Conflict of Interest Act;
 - b) Encourage the Member to stop the prohibited behaviour or activity;
 - c) If applicable, confirm to the Member your satisfaction or dissatisfaction with his or her response to the concern identified;
 - d) Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.

- e) If not satisfied with the response received through the informal process, a Complainant may proceed with a formal Complaint through the Integrity Commissioner as outlined in section 23.8.
- f) Engagement in this informal complaint process must be done in good faith. No Member shall use the informal complaint process to create delay in preventing a Complainant from filing a Complaint within the time limits required by this Code. The Integrity Commissioner may inquire into whether this section has been complied with if a Member raises an objection to a Complaint on the basis of timeliness and may grant an extension of time for filing a Complaint in appropriate circumstances.

Formal Complaints

23.8 Any organization or individual who wishes to file a formal Complaint under this Code must adhere to the requirements set out below:

- a) All formal Complaints must be made using the County's Complaints Form / Affidavit (see Appendix "A") and shall be dated and signed by the Complainant;
- b) The Complaint must include an explanation as to why the issue raised may be a contravention of the Code or the MCIA and any evidence in support of the allegation must be included with the Complaints Form/Affidavit;
- c) Any witnesses in support of the allegation must be identified on the Complaint Form/Affidavit;
- d) The Complaint Form/Affidavit must include the name of the Member alleged to have breached the Code or the MCIA, the section of the Code or MCIA allegedly contravened, the date, time and location of the alleged contravention and any other information as required on the Complaint Form/Affidavit;
- e) The Complaint shall be filed with the Integrity Commissioner who shall confirm that the information is complete as to a), b), c) and d) of this section. The Commissioner will determine whether the matter is, on its face, a Complaint with respect to non-compliance with the Code or the MCIA and not otherwise excluded from the jurisdiction of the Integrity Commissioner in section 23.10; and
- f)) The Integrity Commissioner may request additional information from the Complainant.

Timing of Complaints

23.9 No Complaint regarding matters in this Code of Conduct or with respect to sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act may be filed with the Integrity Commissioner between the nomination day for the municipal election and voting day for that election.

Matters Excluded from the Jurisdiction of the Integrity Commissioner

23.10 The following matters are excluded from the jurisdiction of the Integrity Commissioner and when the Integrity Commissioner receives a Complaint in respect of any excluded matter must dispose of the matter in the manner described below:

- a) **Criminal Matter** – if the Complaint is an allegation of a criminal nature consistent with the Criminal Code of Canada, the Complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
- b) **Municipal Freedom of Information and Protection of Privacy** – if the Complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the Complainant shall be referred to the Clerk to have the matter reviewed under that Act; and

Refusal to Conduct an Investigation

23.11 If upon review of a Complaint, the Integrity Commissioner is of the opinion that the Complaint is Frivolous, Vexatious or not made in Good Faith, or that there are no or insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the Complainant and the Member identified in the Complaint Form/Affidavit.

Opportunity for Resolution

23.12 If at any time, following the receipt of a formal Complaint or during the investigation process, the Integrity Commissioner 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 made to achieve an informal resolution.

23.13 If the parties to the Complaint elect to proceed under section 23.11 above, they may select any person, including the Integrity Commissioner to act as mediator. Where the parties have agreed to select the Integrity Commissioner to act as mediator but any of the parties decides that resolution is unlikely to be achieved, thus requiring the Integrity Commissioner to proceed with the investigation, no party may seek to oust the jurisdiction of the Integrity Commissioner on the sole ground that the Integrity Commissioner acted as mediator.

Section 24: Investigation

24.1 If the Integrity Commissioner determines that a formal investigation is required he or she shall proceed in the following manner, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under Parts I and II of the *Public Inquiries Act*.

- a) Within fourteen days of having determined that a Complaint is properly submitted and complete in section 23.5 above, the Integrity Commissioner shall deliver a copy of the Complaint to the Member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within fourteen days of receipt;
- b) Within fourteen days of receiving the response of the Member in section 24.1(a) above, the Integrity Commissioner shall deliver a copy of the response provided by the Member to the Complainant with a request for a written reply within fourteen days of receipt;

- c) The Integrity Commissioner may, in his or her discretion, extend the timelines in sections a) and b) above where extenuating circumstances exist;
- d) The Integrity Commissioner may, in his or her discretion, amend any part of the investigation process in order to facilitate a fair and just resolution where extenuating circumstances exist and the Integrity Commissioner will report to Council in the investigation report any such amendments made;
- e) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation encountered during the investigation;
- f) If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, may enter any County work location relevant to the Complaint for the purpose of investigation and potential resolution, and may exercise the Integrity Commissioner's full authority under sections 223.3 through 223.5 of the Municipal Act in order to investigate the Complaint;
- g) Where a Complaint is a request for an inquiry into a contravention of the Municipal Conflict of Interest Act, the Integrity Commissioner may hold a public meeting in accordance with section 223.4.1 of the Municipal Act.
- h) At any time the Complainant may abandon the request for an investigation and the Integrity Commissioner will cease his or her investigation, subject to section 24.1(i) below.
- i) Where the Integrity Commissioner has reason to believe that the Complaint was abandoned, pursuant to section 24.1(h), due to intimidation of the Complainant, the Integrity Commissioner may request to appear before Council and obtain direction as to whether the Complaint should be considered as abandoned.
- j) The Integrity Commissioner, in his or her sole discretion, may provide copies of the draft investigation report to the Complainant and Respondent prior to issuing a final report to Council. The Integrity Commissioner may receive further submissions from the Respondent or Complainant but is not required to incorporate such further submissions into the final report.

Termination of a Complaint Due to an Election

- 25.2 If the Integrity Commissioner has not completed a Complaint inquiry before nomination day for a regular election, the Integrity Commissioner shall terminate the Complaint inquiry on that day.
- 25.3 If the Complaint inquiry is terminated under section 25.2, the Integrity Commissioner shall not commence another inquiry in respect of the same matter unless, within six weeks after voting day in a regular election, the person who made the Complaint or request or the Member or former Member about whom the Complaint was made applies in writing to the Integrity Commissioner for the inquiry to be carried out.

Section 26: Recommendation Report For Complaints Under This Code Other Than Inquiries Into Contraventions Of The Municipal Conflict Of Interest Act

- 26.1 Complaint inquiries must be complete within 90 days of the date the Complaint was submitted to the Integrity Commissioner subject to the discretion of the Integrity Commissioner to extend the time for inquiry due to the circumstances involved. Where the Integrity Commissioner believes that longer than 90 days is required, they shall submit an Interim Report to both the Complainant and the Member indicating the additional time required.
- 26.2 Notwithstanding section 26.1 above, where the Integrity Commissioner believes that it will take longer than 180 days to complete a Complaint inquiry, the Integrity Commissioner shall provide an Interim Report to Council requesting an extension of time no later than 30 days before the end of the 180 day period.
- 26.3 Where the Integrity Commissioner requests an extension of time in section 26.2 above, they shall do so In Camera and only disclose such information as is necessary to support the request for additional time.
- 26.4 The calculation of the time periods in sections 26.1, through 26.3 shall not include any time that was spent attempting to achieve an informal resolution or settlement of the Complaint.
- 26.5 If during the inquiry process, the Complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, the terms of any resolution and any recommended action within thirty days.
- 26.6 If upon completion of the inquiry the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report his or her findings to Council including a recommendation as to the imposition of a penalty as set out in the *Municipal Act* of:
- a) a reprimand;
 - b) suspension of remuneration paid to the Member for a period of up to ninety days.
- 26.7 If upon completion of the inquiry, the Integrity Commissioner finds that there has been no contravention of the Code, or that a contravention occurred, however, the Member took all reasonable measures to prevent it, or the contravention committed was trivial or committed through inadvertence or an error of judgment made in Good Faith, the Integrity Commissioner shall set this out in its report to Council.
- 26.8 The report of the Integrity Commissioner must be presented in a public meeting of Council and any debate on the report must be held in public.

Section 27: Duty of Council with respect to Complaints Other Than Inquiries into Contraventions of the Municipal Conflict of Interest Act

- 27.1 Council's review of the report of the Integrity Commissioner is not a review of the facts found by the Integrity Commissioner, but only a consideration of whether the Integrity Commissioner has conducted the investigation fairly and in good faith and whether Council wishes to act on the recommendation of the Integrity Commissioner.
- 27.2 Council shall consider the report of the Integrity Commissioner within 30 days of it being received by the Clerk and shall take the action it considers appropriate with regard to the recommendation(s) of the Integrity Commissioner, including requesting additional information or further investigation by the Integrity Commissioner.

- 27.3 Council has the right to determine whether or not legal counsel will be entitled to appear as a delegation before Council on behalf of either the Member or the Complainant or to hear from the Complainant in person, considering whether to do so will impact the fairness of the proceedings to the parties to the Complaint and to Council. Delegations to Council will be restricted to the matters in paragraph 27.1 and not be permitted to engage in a debate of the facts as found by the Integrity Commissioner.
- 27.4 In circumstances where the alleged breach of trust or other misconduct is serious in nature, Council may pass a resolution, pursuant to the *Municipal Act, 2001*, requesting a judicial inquiry into the Member's conduct.
- 27.5 Where a Member may be reprimanded as a result of a report of the Integrity Commissioner, the Member may participate in the meeting at which the report is discussed but may not vote.

Section 28: Process After Completion of an Inquiry into a Contravention of the Municipal Conflict of Interest Act

- 28.1 At the completion of an inquiry into a contravention of the Municipal Conflict of Interest Act, the Integrity Commissioner may apply to a judge for a determination as to whether the Member has contravened sections 5, 5.1, or 5.2 of the Municipal Conflict of Interest Act, as permitted under sections 223.4.1 (15) et seq of the Municipal Act.
- 28.2 The Integrity Commissioner must publish written reasons for the decision whether or not to apply to a judge as per section 28.1 above.
- 28.3 Costs associated with making an application to a judge in section 28.1 will be paid by County Council or by the Local Board with respect to which the application was made as per section 223.4.1 of the Municipal Act.

Section 29: No Complaints or Reports Prior to Election

- 29.1 No Complaint regarding a Member who is a candidate in an election may be accepted by the Integrity Commissioner for review and/or investigation between Nomination Day and the date of the inaugural meeting of Council in any year in which a regular municipal election will be held. The Integrity Commissioner shall hold such Complaint in abeyance until after the inaugural meeting and advise the Complainant of this process. The time elapsed between Nomination Day in a regular election year and the inaugural meeting of the newly elected Council shall not be included in the time calculation referred to in section 26.
- 29.2 Notwithstanding section 26 of the Code, the Integrity Commissioner shall not make any report to Council or to any other person between Nomination Day and the inaugural meeting of the incoming Council.
- 29.3 Any investigations completed after Nomination Day will be reported at the first Council meeting held after the inaugural meeting of the new Council.

Section 30: Confidentiality of Complaint Documents

- 30.1 The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the County or not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the *Municipal Act*.
- 30.2 Pursuant to section 223.5(3) of the Municipal Act, this section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.
- 30.3 If the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that in the Integrity Commissioner's opinion is required for the purposes of the report.
- 30.4 Notwithstanding section 30.3, the Integrity Commissioner may include in any report to Council any information which in the opinion of the Integrity Commissioner is necessary for the purposes of the report and without limitation, may disclose information otherwise considered to be confidential under this Code or the Municipal Act.
- 30.5 If the Integrity Commissioner issues an annual or other periodic report to Council on his or her activities, the Integrity Commissioner shall summarize the advice he or she has given but shall not disclose Confidential Information.

Section 31: Other Duties of the Integrity Commissioner

- 31.1 In addition, to conducting investigations regarding alleged breaches of the Code, the Integrity Commissioner shall have the following responsibilities:
 - a) Provide information to Council as to their obligations under the Code;
 - b) Provide advice to individual Members regarding specific situations as they relate to the application of the Code;
 - c) Provide advice to Council on other policies and procedures that relate to the ethical behaviour of Members;
 - d) Provide general advice on conflict of interest issues noting that this advice may not be used in defense of allegations related to conflict of interest;
 - e) Provide information to the public regarding the Code and the obligations of Members under the Code; and
 - f) Provide an annual report to Council on the activities of the Integrity Commissioner.

Section 32: Requests for Advice

- 32.1 Where an individual Member is seeking to obtain advice from the Integrity Commissioner, the Member shall submit to the Integrity Commissioner a completed Request for Advice Form (see Appendix "B") which shall be forwarded to the Integrity Commissioner for response.
- 32.2 The Integrity Commissioner shall provide his or her advice in writing to the Member.

- 32.3 Any written advice given by the Integrity Commissioner to a Member, as it relates to the Code, binds the Integrity Commissioner in any subsequent consideration of the Member's conduct in the same matter provided the relevant facts known to the Member were disclosed to the Integrity Commissioner and the information or facts have not changed in the interim.
- 32.4 Any written requests for advice and responses to such requests are covered under the *Municipal Freedom of Information and Protection of Privacy Act*.

Section 33: Annual Report to Council

- 33.1 In completing its annual report to Council, the Integrity Commissioner shall include information on the nature and volume of activity for the past year and provide examples that are anonymous in respect of advice provided and the nature of Complaints received and responded to.
- 33.2 The annual report of the Integrity Commissioner shall be provided to the Council for information purposes. The report is a public document.

Related Policies:

- Council Remuneration By-law
- Purchasing By-law
- Human Resources Statement of Procedures
 - Hiring of Relatives
- Corporate Health & Safety Statement of Procedures
 - Prevention of Violence in the Workplace
 - Workplace Harassment

Related Legislation:

- Municipal Act, 2001, S.O. 2001, c. 25;
- Municipal Conflict of Interest Act, R.S.O 1990, c.M. 50;
- Municipal Elections Act, 1996, S.O. 1996, c. 32;
- Municipal Freedom of Information and Protection of Privacy Act, R.S.O.) 1990, c.M. 56;
- Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace) 2009
- The Ontario Human Rights Code; and
- The Criminal Code of Canada.

Appendix "A" to the Council Code of Conduct Policy

Formal Complaint Form / Affidavit

I, _____ (full name) of the _____ of _____, County of Brant, in the Province of Ontario do solemnly swear/(affirm and declare) that the following contents of this affidavit as subscribed are true and correct:

Permanent place of residence:

Mailing address (if different from above):

I have personal knowledge of the facts as set out in this Affidavit because

(insert reasons e.g. I work for... I attended a meeting at which... etc.) I have reasonable and probable grounds to believe that _____ (specify name of Member) has contravened section (s) _____ of the Municipal Code of Conduct for the County of Brant. The particulars of which are as follows: *(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space, please use the attached Schedule A and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B etc. and attach them to this affidavit.)*

A Commissioner, etc.

Signature of Complainant (to be witnessed by Commissioner)

Note: This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority to confirm or verify the above sworn information. **THE CRIMINAL CODE OF CANADA** provides that: everyone commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him a false statement under oath or solemn

affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years (Section 131, 132), or by summary conviction (Section 134). Signing a false affidavit may expose you to prosecution under Sections 131 and 132 or 134 of the Criminal Code, R.S.C. 1985, c. C-46 and also to civil liability for defamation.

