

**THE CORPORATION OF THE
TOWNSHIP OF WAINFLEET
BYLAW NO. 044-2016**

Being a bylaw to adopt a Code of Conduct for
Council of the Corporation of the Township of
Wainfleet

WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the "MA") as amended, provides the Corporation of the Township of Wainfleet (the "Township") with the capacity, rights, powers and privileges of a natural person;

AND WHEREAS the Township has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the MA or any other Act;

AND WHEREAS section 11 of the MA authorizes the Township to pass by-laws regarding accountability and transparency of the Township and its operations;

AND WHEREAS section 223.2(1) of the MA authorizes the Township to establish codes of conduct for members of Council of the Township ("Council") and of local boards of the Township;

AND WHEREAS Council deems it necessary to adopt a Code of Conduct Policy for members of Council and local boards of the Township;

NOW THEREFORE Council HEREBY ENACTS AS FOLLOWS:

1. **SEVERABILITY:** In the event that a section or sections of this by-law or the Code of Conduct Policy it enacts are found by a Court of competent jurisdiction to be invalid or ultra vires, such section, sections or parts thereof shall be deemed to be severable, with all other sections or parts of this by-law remaining in full force and effect.
2. **SCHEDULES:** The following schedule is attached and forms part of this by-law:
 - a. Schedule "A" – Code of Conduct for Council Policy
3. **EFFECTIVE DATE:** This by-law shall come into force and take effect upon the day of its passage.

BYLAW READ A FIRST TIME THIS 12TH DAY OF JULY, 2016.

BYLAW READ A SECOND TIME THIS 12TH DAY OF JULY, 2016.

BYLAW READ A THIRD TIME AND FINALLY PASSED THIS 2ND DAY OF AUGUST, 2016.

A. Jeffs, MAYOR

S. Smith, ACTING CLERK

CORPORATION OF THE TOWNSHIP OF WAINFLEET

SCHEDULE "A"

TO

BY-LAW 044-2016



**CODE OF CONDUCT
FOR COUNCIL POLICY**

1. Interpretation:

a. Definitions:

- i. In this Code of Conduct, the following terms have the following meanings:
 1. “**Child**” has the same meaning as in the MCIA;
 2. “**Complaint**” means a request by Council, a Member, a Staff member, or a member of the public (Resolution No. C-041-2018) that the Integrity Commissioner conduct an investigation into an event or series of events alleged to contravene the Code of Conduct;
 3. “**Complainant**” means Council, the Member, Staff member, or member of the public who has made a Complaint;
 4. “**Confidential Information**” means:
 - a. information that is in the possession of, or received in confidence by the Township, that the Township is either prohibited from disclosing, or required to refuse to disclose under MFIPPA, or any other legislation, including, but not limited to, information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal and information that is subject to solicitor-client privilege;
 - b. information that is made available during an *in camera* (closed) meeting in accordance with subsections 239(2) and (3) of the MA, including, but not limited to, information of a confidential nature that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the Township or a local board;
 - c. information concerning disputes with the Township that are being litigated or negotiated;
 - d. information that infringes the rights of others, including, but not limited to, the source of complaints made under other legislation, by-laws, or policies, where the identity of a complainant is given in confidence;
 - e. submissions that are marked confidential;
 - f. information deemed to be “personal information” under the MFIPPA; and
 - g. statistical data required by law not to be released, including, but not limited to, certain census or assessment data.
 5. “**Council**” means the council of the Township;

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6. “**Criminal Code**” means the *Criminal Code of Canada*, R.S.C. 1985, c. C. 46, as may be amended from time to time.
 7. “**Family Member**” means a Child, Parent and/or Spouse;
 8. “**Frequent Complainant**” means a Complainant who files three (3) or more Complaints with the Township in a calendar year;
 9. “**Gift**” means a fee, advance, cash, gift, gift certificate, personal benefit, and/or use of property or facilities, including, but not limited to, use of a vehicle, office, or vacation property at less than reasonable market value or at no cost;
 10. “**Infrequent Complainant**” means a Complainant who files less than three (3) Complaints with the Township in a calendar year;
 11. “**Inquiries Act**” means the *Public Inquiries Act, 2009*, S.O. 2009, c. 33, as may be amended from time to time;
 12. “**Member**” means a member of Council, including the Mayor;
 13. “**MA**” means the *Municipal Act, 2001*, S.O. 2001, c. 25, as may be amended from time to time;
 14. “**MCIA**” means the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M. 50, as may be amended from time to time;
 15. “**MEA**” means the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as may be amended from time to time;
 16. “**MFIPPA**” means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, M. 56, as may be amended from time to time;
 17. “**Nomination Day**” means the last day for filing or withdrawing a nomination as provided for by the MEA;
 18. “**Parent**” has the same meaning as in the MCIA;
 19. “**Spouse**” has the same meaning as in the MCIA;
 20. “**Staff**” includes Chief Administrative Officer, Directors, Managers, Supervisors and all current non-union and union employees of the Township, whether full-time, part-time, contract or seasonal, and including volunteers; and
 21. “**Township**” means the Corporation of the Township of Wainfleet
- b. **Application:** This Code of Conduct applies to all Members.
- c. **Statutory Provisions:** The MA is the primary piece of legislation governing the Township, however there are other statutes that govern the conduct of Members. It is

intended that the Code of Conduct operate together with and supplemental to the following legislation:

- i. MA;
- ii. MCIA;
- iii. MEA;
- iv. MFIPPA; and
- v. Criminal Code.

2. Key Principles

- a. Members shall serve and be seen to serve their constituents in a conscientious and diligent manner.
- b. Members shall be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and private conflicts of interest, both apparent and real. Members shall also not extend in the discharge of their official duties, preferential treatment to Family Members, or organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest.
- c. Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.
- d. Members shall not contract with the Township or any agency thereof for the sale and/or purchase of supplies, materials or equipment or for the rental thereof.
- e. Members shall seek to serve the public interest by upholding the laws and policies established by the Federal and Provincial government, and by Council.
- f. In fulfilling their roles as elected officials, Members shall respect the role of Staff in the administration of the business affairs of the Township.

3. Gifts and Benefits:

- a. No Member shall accept a Gift that is connected directly or indirectly with the performance of his or her duties of office unless permitted by the exceptions listed below.
- b. A Gift provided with the Member's knowledge to a Family Member of a Member that is directly or indirectly connected to the performance of the Member's duties, is deemed to be a Gift to that Member.
- c. The following are recognized as exceptions:
 - i. compensation authorized by law;

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- ii. such Gifts that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - iii. a political contribution otherwise reported by law, in the case of Members running for office;
 - iv. service provided without compensation by persons volunteering their time;
 - v. a suitable memento of a function honouring the Member;
 - vi. food, lodging, transportation and entertainment provided by Provincial, Regional and local government or political subdivisions of them, by the Federal government, or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at the conference, seminar, or event;
 - vii. food and beverages consumed at banquets, receptions, or similar events, if:
 - 1. attendance serves a legitimate business purpose for the Township;
 - 2. the person extending the invitation or a representative of the organization is in attendance; and
 - 3. the value is reasonable and the invitations infrequent.
 - viii. Print and digital newspapers, newsletters, magazines, catalogues, periodicals, and other communications providing news and information about current events to the office of a Member; and
 - ix. sponsorships and donations for community events organized or run by a Member or a third party on behalf of a Member and subject to the limitations set out in the Code of Conduct respecting Member-organized community events, where all costs are incurred and where all such events occur on or before Nomination Day.
- d. In the case of exceptions claimed under subsections 3(c)(ii), (v), (vi), (vii), (viii) and (xi),
- i. where the value of the Gift exceeds \$500.00, or if the total value received from any one source during the course of a calendar year exceeds \$500.00, the Member shall, within thirty (30) days of receipt of the Gift or reaching the annual limit, file a disclosure statement with the Clerk of the Township that will be a matter of public record and discloses:
 - 1. the nature of the Gift;
 - 2. its source and date of receipt;
 - 3. the circumstances under which it was given or received;
 - 4. its estimated value;
 - 5. what the recipient intends to do with any Gift; and

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6. whether any Gift will at any point be left with the Township.
 - e. Except in the case of exceptions claims under subsection 3(i), (iii), (vi), and (ix),
 - i. a Member may not accept a Gift worth in excess of \$1,000.00 or Gifts from one source during a calendar year worth in excess of \$1,000.00.
- 4. Confidential Information:**
- a. No Member shall disclose the content of, or the substance of any discussions and/or deliberations at an *in camera* (closed) meeting until Council discusses the information at a meeting that is open to the public or releases the information to the public, unless required by law.
 - b. No Member shall disclose or release by any means to any member of the public any Confidential Information acquired by virtue of their office, in either oral or written form, except where required by law or authorized by Council to so.
 - c. No Member shall use Confidential Information for personal or private gain, or for the gain of Family Members, other relatives or any person or corporation, including, but not limited to, directly or indirectly benefiting or aiding others to benefit from knowledge respecting bidding on the sale of Township property or assets.
 - d. Members shall not access or attempt to gain access to Confidential Information in the custody of the Township unless it is necessary for the performance of their duties and is not prohibited by Council policy.
- 5. Use of Staff, Property, Services and Other Resources of the Township:**
- a. Under the direction of the Chief Administrative Officer, Staff serves the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Members shall be respectful of the role of Staff to provide advice 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 Staff, and all Members shall show respect for the professional capacities of Staff.
 - b. No Member shall compel Staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
 - c. Nor shall any Member use, or attempt to use, their authority or influence for the purposes of intimidating, threatening, coercing, commanding, or influencing Staff with the intent of interfering with that person’s duties, including the duty to disclose improper activity. In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Members when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as a standing committee member, participating as chair of a standing committee, and participating as Council’s representative on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of Staff in both the carrying out of their responsibilities and in dealing with the Council.

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- d. No Member shall use the services of Staff, or make requests for documents or information from Staff, unless such documentation or information is required for the purpose of carrying out their duties as public officials and the Chief Administrative Officer is notified.
 - e. Members shall be respectful of the role of Staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of Council.
 - f. Under direction of the Chief Administrative Officer, Staff serve Council as a whole and the combined interests of all Members as evidenced through the decisions of Council. Only Council as a whole has the authority to approve budget, policy, committee processes and other matters. Accordingly, Members shall direct requests outside of Council-approved budget, process or policy, to the appropriate committee or directly to Council.
 - g. No Member shall attempt to influence Staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application.
 - h. No Member shall involve themselves in matters of administration or departmental management which fall within the jurisdiction of the Chief Administrative Officer.
 - i. No Member shall use or permit the use for personal purposes of any Township services, property, equipment, supplies, websites, social media accounts or other Township-owned materials, other than for purposes connected with the discharge of the Township's duties.
 - j. No Member shall obtain personal financial gain from the use or sale of Township developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations or any other item capable of being patented. Members acknowledge and do not dispute that all such property remains exclusively that of the Township.
 - k. No Member shall use information gained in the execution of his or her duties that is not available to the general public, for any purposes other than his or her official duties.
 - l. No Member shall include an advertisement for a business in the Township, including offers with respect to distribution of gift cards or free tickets, in his or her website, newsletters, e-mails or printed material maintained in their capacity as a Member. Attending and reporting the opening of a new business or a business event in the Township is permissible and a Member may thank verbally or in a newsletter, a business by name or an employee of that business which contributes to a Township or community event by name, provided that no such recognition shall constitute an endorsement of such business.

6. Election Campaigns:

- a. Members are required to follow the provisions of the MEA and Members are accountable under the provisions of that statute.

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- b. No Member shall use the facilities, equipment, supplies, services or other resources of the Township for any election campaign or campaign-related activities, except in the following circumstance:
 - i. In the event the Township maintains an election website that is available and authorized for use by all candidates for Council, a Member may place materials on such website, in accordance with the terms and conditions applicable to all candidates.
 - c. In a municipal election year, commencing on Nomination Day until the date of the election, no Member or other candidate for elected office in the Township, may book directly or indirectly, any facility for any purpose that might be perceived as an election campaign purpose if that facility is being used as a polling station.
 - d. Members shall ensure that any use of facilities or the services of Staff are carried out in accordance with this Code of Conduct and all applicable legislation. Staff are not responsible for monitoring and advising Members or any other candidates, in that regard.
 - e. Members shall be respectful of the role of the Clerk of the Township in managing the municipal election process and meeting all statutory requirements in respect thereof. No Member and no candidate for elected office in the Township shall interfere with how the Clerk of the Township carries out his or her duties.
 - f. No Member shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the Township.

7. Improper Use of Influence:

- a. No Member shall use the influence of his or her office for any purpose other than for the exercise of his or her official duties.
- b. Members shall not contact members of any tribunal regarding any matter before it, including, but not limited to, the Committee of Adjustment, which is charged with making independent decisions and whose members have been appointed by Council. Members may attend meetings or hearings but shall not speak to any tribunal members about any application nor make any representations to any such tribunal. Members shall not make representations of any kind to other tribunals, including, but not limited to the Ontario Municipal Board or the Environmental Review Tribunal, but may request Council to instruct the Township’s lawyers to appear in a case before such a tribunal.
- c. The Chief Administrative Officer directs the department head of each Township department, who in turn directs Staff. Council, and not individual Members give direction to the Chief Administrative Officer.

8. Business Relations:

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

- b. No Member shall borrow money from any person who regularly does business with the Township unless such person is an institution or company whose shares are publicly traded or who is regularly in the business of lending money, including, but not limited to, a bank or credit union.

9. Conduct of Council at Committee Meetings and When Representing the Township:

- a. All Members shall conduct themselves at Council and committee meetings with decorum and in accordance with the Township’s Procedural By-Law, as may be amended or repealed and replaced, from time to time.
- b. Members shall endeavor to conduct and convey Council business and all their duties in an open and transparent manner, other than for those decisions which deal with Confidential Information and/or by virtue of legislation are authorized to be dealt with *in camera* (closed session), and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.
- c. Members shall make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the Township or by virtue of being an elected official.
- d. Given that Council and committee meetings are scheduled far in advance to accommodate the many activities of elected office of a Member, to participate diligently means that a Member shall not be absent from Council or committee meetings, or from those agencies, boards and commissions to which they are appointed by virtue of their status as a Member, without reasonable justification, for more than three (3) consecutive scheduled meetings.

10. Media Communications:

- a. Members shall accurately communicate the decisions of Council even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making process of Council.
- b. A Member may state that he or she did not support a decision, or voted against the decision.
- c. Members shall not make disparaging comments about other Members or about Council’s process and decisions.
- d. Members shall at all time refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member.
- e. Members shall keep all Confidential Information confidential in any discussion or communication with the media.

11. Respect for the Township and its By-Laws and Policies:

- a. Members shall encourage public respect for the Township, its by-laws and policies.

- b. Members shall not encourage or counsel disobedience of a Township by-law or policy in responding to a member of the public.
- c. Members shall conduct themselves with appropriate decorum at all times.

12. Respectful Workplace:

- a. Members shall treat members of the public, one another, and Staff appropriately and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

13. Employment of Council Family Members:

- a. No Member shall attempt to influence the outcome, or to influence Staff to hire or promote a Family Member.
- b. No Member shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member.
- c. No Member shall supervise a Family Member, or be placed in a position of influence over a Family Member.
- d. No Member shall attempt to use a family relationship for his or her personal benefit or gain.

14. Failure to Adhere to Council Policies and Procedures:

- a. Members shall adhere to such by-laws, policies, and procedures adopted by Council that are applicable to them. This provision does not prevent a Member from requesting that Council grant an exemption from a policy.

15. Reprisals and Obstruction:

- a. No Member shall obstruct the Integrity Commissioner in carrying out his or her responsibilities.
- b. No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code of Conduct, or against a person who provides information to the Integrity Commissioner in any investigation.
- c. No Member shall destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged pursuant to this Code of Conduct.
- d. Members shall respect the Code of Conduct and investigations conducted under it.

16. Public Review:

- a. Any person who has identified or witnessed behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct may wish to address the prohibited behaviour or activity themselves as follows:

- i. advise the Member that the behaviour or activity contravenes the Code;
- ii. encourage the Member to stop the prohibited behaviour or activity;
- iii. keep a written record of the incidents including dates, times, locations, or other persons present, and any other relevant information;
- iv. if applicable:
 1. confirm to the Member your satisfaction with the response of the Member;
or
 2. advise the Member of your dissatisfaction with the response; and
- v. consider the need to pursue the matter in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

17. Formal Complaint Procedure:

a. *Filing a Complaint:*

- ~~i. A member of the public cannot submit a formal Complaint. A Complainant who is a Member may make a Complaint in support of a member of the public, or with respect to the conduct of a Member directed at a member of the public, whether or not the Complainant witnessed the conduct alleged to violate the Code of Conduct;~~
- i. Any member of the public may make a Complaint of a Member of Council that contains the information required to complete Appendix A which is attached hereto, and forms part of this Code of Conduct and shall be in the form of an affidavit. ***As amended by Resolution No. C-041-2018***
- ii. A Complaint shall contain the information required to complete Appendix “A”, which is attached hereto, and forms part of this Code of Conduct, and, shall be in the form of an affidavit;
- iii. A Complainant may make a Complaint regarding a Member by filing with the Clerk of the Township a completed and sworn or affirmed Appendix “A” to this Code of Conduct, together with the fee, if required pursuant to subsection 17(b), and the Clerk of the Township shall forward such Complaint, without added comment, to the Integrity Commissioner.
- iv. Council may refer a Complaint directly to the Integrity Commissioner, and in such cases, no fee pursuant to subsection 17(b) shall be payable and Appendix “A” shall not be completed.
- v. A Complaint regarding a Member shall not be made available to the public except as may be required under the MFIPPA.

b. *Refundable Fee:*

- i. A Complainant shall pay to the Clerk of the Township a refundable fee in the amount of \$100.00 if they are an Infrequent Complainant, or in the amount of \$500.00 if they are a Frequent Complainant, upon filing of a Complaint, which, unless the Integrity Commissioner concludes that the Complaint is frivolous, vexatious, or not made in good faith, the fee shall be refunded to the Complainant when the Integrity Commissioner files their report under subsection 17(g).

c. *Limitation Period:*

- i. Except as provided for in this subsection 17(c) or subsection 17(j) the Integrity Commissioner shall not proceed with an inquiry in regard to a Complaint which is filed with the Clerk of the Township more than fifty (50) days after the date when the event or series of events which are the subject matter of the Complaint were discovered by the Complainant. For the purposes of this subsection 17(c), an event or series of events, is discovered on the earlier of:
 - 1. the date upon which the Complainant first knew,
 - a. that the event, or series of events, had occurred;
 - b. that the event, or series of events, constituted a contravention of the Code of Conduct; and
 - c. the identity of the Member involved in the event or series of events; and
 - 2. the date on which a reasonable person with the abilities and in the circumstances of the Complainant first ought to have known of the matters referred to in subparagraph 17(c)(1)(a).
- ii. A Complainant is deemed to have known the matters referred to in subparagraph 17(c)(1)(a) on the date the event, or series of events, occurred, unless the contrary is proven, the onus of proof lies upon the Complainant.
- iii. Where, pursuant to this subsection 17(c), the Integrity Commissioner decides not to proceed with an inquiry they shall prepare and file a report under subsection 17(g), which applies with all necessary modifications, setting out that decision.

d. *Initial Classification by the Integrity Commissioner:*

- i. Upon receipt of a Complaint, the Integrity Commissioner shall make an initial classification 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.
- ii. If the Complaint is not, on its face, a Complaint with respect to non-compliance with the Code of Conduct or the Complaint is covered by other legislation or a procedure under another Council policy, the Integrity Commissioner shall advise the Complainant in writing as follows:

1. if the Complaint on its face is an allegation of a criminal nature consistent with the Criminal Code, the Complainant shall be advised that if the Complainant wishes to pursue any such allegation, the Complainant must pursue it with the appropriate police force;
 2. if the Complaint on its face is with respect to non-compliance with MFIPPA, the Complainant shall be advised that the Complainant must pursue it with the Clerk of the Township;
 3. if the Complaint on its face, is with respect to non-compliance with another policy of Council with a separate complaint procedure, the Complainant shall be advised that the matter will be processed under that procedure; and
 4. in other cases, the Complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.
- iii. If the Integrity Commissioner receives a complaint during a municipal election year respecting a Member who is seeking re-election and he or she is of the opinion that it is a politically motivated Complaint, the Integrity Commissioner may stay the investigation until after the new Council takes office or dismiss it if he or she concludes it is specious.
 - iv. The Integrity Commissioner may report to Council that a specific Complaint is not within the jurisdiction of the Integrity Commissioner.
 - v. The Integrity Commissioner shall report annually to Council on Complaints not within the jurisdiction of the Integrity Commissioner, but where possible, shall not disclose information that could identify a person concerned.

e. *Investigation:*

- i. When a Complaint is received, the Integrity Commissioner shall conduct an inquiry promptly, thoroughly, and in a manner that ensures the Member who is the subject of the Complaint is given an opportunity to know the nature of the Complaint against them and to make representations respecting the Complaint to the Integrity Commissioner.
- ii. The Integrity Commissioner is responsible for performing the duties set out in this Code of Conduct independently, and shall report directly to Council in respect of all such matters. The Integrity Commissioner shall file an annual report to Council of the Township respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of the Integrity Commissioner.
- iii. Information concerning the nature of a Complaint disclosed to a Member under paragraph 17(e)(i) shall be used by the Member only for the purpose of making representations respecting the Complaint to the Integrity Commissioner and not for any other purpose.

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- iv. If the Integrity Commissioner is satisfied that a Complaint regarding a Member does not contain sufficient information to set out a *prima facie* contravention of the Code of Conduct they shall stay the inquiry into the Complaint.
 - v. Before staying an inquiry under paragraph 17(e)(v), the Integrity Commissioner shall give the Complainant an opportunity to provide additional information respecting the Complaint, and in doing so, shall explain to the Complainant what additional information would be required to set out a *prima facie* contravention of the Code of Conduct.
 - vi. Where the Complainant provides additional information under paragraph 17(e)(v), the Integrity Commissioner shall consider all of the information provided and shall reassess whether there is sufficient information to set out a *prima facie* contravention of the Code of Conduct.
 - vii. Where the Integrity Commissioner has stayed an inquiry into a Complaint and, after the stay, additional information is provided which, on its own or together with the information provided before the stay, sets out a *prima facie* contravention of the Code of Conduct, the Integrity Commissioner shall lift the stay and conduct the inquiry.
 - viii. If the Integrity Commissioner is satisfied, after considering the information contained in a Complaint, and any other relevant information, that a Complaint regarding a Member is frivolous, vexatious, or not made in good faith, they shall not conduct an inquiry or, where that becomes apparent in the course of an inquiry, shall terminate the inquiry.
 - ix. Where, pursuant to paragraph 17(e)(viii), the Integrity Commissioner decides not to proceed with an inquiry they shall prepare and file a report under subsection 17(g), which applies with necessary modifications, setting out that decision.
 - x. If a Complaint has been classified as being within the Integrity Commissioner’s jurisdiction and not rejected or stayed, the Integrity Commissioner shall investigate and may attempt to settle the complaint.
 - xi. In conducting an investigation into a Complaint regarding a Member, the Integrity Commissioner may elect to conduct an informal investigation or alternatively to exercise the powers of a commission under sections 33 and 34 of the Inquiries Act, as may be amended from time to time, and as contemplated by subsection 223.4(2) of the MA.
 - xii. If the Integrity Commissioner elects to conduct an inquiry under the Inquiries Act, he or she shall report to Council and seek instructions before proceeding, setting out the reasons for the investigation and providing an estimate of the expected cost and time that the investigation will require. Council shall either approve the inquiry under the Inquiries Act or instruct the Integrity Commissioner to conduct an informal investigation.
 - xiii. When the Inquiries Act applies to an investigation of a Complaint, the Integrity Commissioner shall comply with the procedures specified in the Inquiries Act and this Code of Conduct, but, if there is a conflict between a provision of this Code

of Conduct and a provision of the Inquiries Act, the provision of the Inquiries Act prevails.

- xiv. The Integrity Commissioner shall proceed as follows, except where otherwise required by the Inquiries Act:
 - 1. serve by personal service or registered mail to the last known address of the Member a copy of the Complaint and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within ten (10) days; and
 - 2. serve by personal service or registered mail to the last known address of the Complainant a copy of the response provided upon the Complainant with a request for a written reply within ten (10) days.
- xv. If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the Complaint, access and examine any information described in sections 223.4(3) and (4) of the MA, and may enter any Township work location relevant to the Complaint for the purposes of investigation and settlement.
- xvi. 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 at least seven (7) days notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.
- xvii. The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
- xviii. The Integrity Commissioner shall report to the Complainant and the Member no later than sixty (60) days after the making of the Complaint.
- xix. Where the Complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings, the terms of any settlement, or recommended corrective action.
- xx. Where the Complaint is dismissed, other than in exceptional circumstances, at the discretion of the Integrity Commissioner, the Integrity Commissioner shall not report to Council except as part of an annual or other requested periodic report.
- xxi. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

- xxii. Members are governed by the MCIA and in the event a complaint under the MCIA is filed with the Court, the provisions of that statute take precedence over any authority given to the Integrity Commissioner to receive or investigate complaints regarding alleged contraventions under the MCIA. The Integrity Commissioner shall investigate and rule on all conflicts of interest, whether pecuniary or non-pecuniary until Court proceedings are started under the MCIA, at which time the investigation shall be stayed.

f. *Penalties Regarding a Contravention by a Member*

- i. The potential penalties for a Member who contravenes the Code of Conduct shall be those authorized under subsection 233.4(5) of the MA, namely:
 - 1. a reprimand; and
 - 2. suspension of remuneration paid to the Member in respect of the Member's services as a Member for a period of up to 90 days.
- ii. The Integrity Commissioner may also recommend in his or her report that Council take the following actions:
 - 1. removal of the Member from membership of a committee;
 - 2. removal of the Member as chair of a committee;
 - 3. repayment or reimbursement of monies received by the Member;
 - 4. return of property or reimbursement of its value by the Member; and
 - 5. a written and/or verbal request for an apology from the Member to Council, the Complainant, or both.
- iii. The power to impose penalties under subsection 17(f) is delegated to the Integrity Commissioner, and the Integrity Commissioner shall not delegate the power to impose the penalties pursuant to subsection 17(f), but shall exercise the power personally.
- iv. A penalty imposed by the Integrity Commissioner takes effect immediately upon the filing of their report on the inquiry with the Clerk of the Township.

g. *Reporting An Investigation:*

- i. Where the Integrity Commissioner has completed an inquiry into a Complaint regarding a Member, they shall, within sixty (60) days of completing the evidence gathering and investigation portion of the inquiry, prepare and file with the Clerk of the Township a report to Council regarding the inquiry.
- ii. Where, in the opinion of the Integrity Commissioner, it is not possible to prepare and file a report to Council within the time set out in paragraph 17(g)(i), he or she may advise Council of this together with the reasons for their inability to prepare and file the report to Council and request an extension of time for the preparation

and filing of the report. Council may, after considering the request, grant the Integrity Commissioner permission to file their report on or before a new fixed date.

- iii. The Integrity Commissioner shall provide a copy of their report filed under subsection 17(g) to the Complainant, to the Member who is the subject of the Complaint and to all other Members at the same time as filing the report with the Clerk of the Township.
- iv. The report filed under subsection 17(g) shall include:
 1. the nature of the Complaint;
 2. the evidence gathered from the Complaint and from the inquiry;
 3. the Integrity Commissioner’s finding of fact regarding the Complaint, which findings shall be made in accordance with the civil standard on a balance of probabilities;
 4. the Integrity Commissioner’s decision, based on the findings of fact, that the Member did or did not contravene the Code of Conduct;
 5. where the Integrity Commissioner decides that the Member has contravened the Code of Conduct or other procedures, rules or policies governing the member’s ethical behaviour; the penalty under subsection 17(f), if any, to be imposed, including a copy of a letter of reprimand, if imposed, or a copy of the notice of suspension of remuneration, if imposed,
- v. Where the Integrity Commissioner imposes a penalty suspending the remuneration paid to a Member, they shall notify the Chief Administrative Officer of the suspension and the period of time of the suspension. The Chief Administrative Officer shall ensure the remuneration of the Member is in accordance with the notice of the Integrity Commissioner.
- vi. Where the Integrity Commissioner has filed a report in respect of an inquiry with the Clerk of the Township under subsection 17(g) the Clerk of the Township shall place the report on the next available Council agenda as an information item.

h. *Confidentiality*

- i. The Integrity Commissioner is entitled to have access to such information belonging to or used by the Township, including legal advice that has been given to Council, committees, boards or Township departments, as they are satisfied is necessary to conduct an inquiry.
- ii. A disclosure to the Integrity Commissioner of legal advice shall:
 1. be deemed not to constitute a waiver of solicitor-client privilege, or any other privilege;

2. shall be used only for the purpose of conducting an inquiry and not for any other purpose; and
 3. the contents or substance of such legal advice shall not be disclosed in any public report prepared by the Integrity Commissioner, and anyone acting under the instructions of the Integrity Commissioner.
- iii. The Integrity Commissioner, and anyone acting under the instructions of the Integrity Commissioner shall:
1. preserve the secrecy of all Confidential Information, whether belonging to the Township or not, that come into their possession or to their knowledge in the course of their duties; and
 2. without limiting the obligation to preserve secrecy under subclause 17(h)(iii)(1), shall ensure that they and, in particular, any reports they prepare, comply at all times with MFIPPA and with the Township’s Procedural By-Law, as may be amended or repealed and replaced, from time to time.
- i. *No Complaints 90 Days Prior to a Municipal Election*
- i. Despite any other provision of this Code of Conduct, no Complaint may be referred to the Integrity Commissioner under paragraph 17(a)(iv) or filed with the Clerk of the Township under paragraph 17(a)(ii), ninety (90) days immediately prior to the date of a regular election held pursuant to the MEA.
 - ii. The ninety (90) days under paragraph 17(i)(i) shall not be included in the calculation of the fifty (50) days under paragraph 18(c)(i).

APPENDIX "A"

Please note that a Member who is the subject of a Complaint of the Code of Conduct will be informed of the identity of the Complainant.

I, _____, of the _____ of _____, in the Province of Ontario, MAKE OATH AND SAY/AFFIRM:

1. I am a (check one):

- a. member of the Council of the Township of Wainfleet or
- b. an employee of the Township of Wainfleet
- c. a member of the public

2. I have personal knowledge of the facts set out in this affidavit because:

Insert the reason(s), e.g. I work for..., I attended the meeting at which..., etc.)

3. I have reasonable and probable grounds to believe that _____, a member of the Council of Wainfleet, has contravened section(s) _____ of the Code of Conduct, 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 attach an additional page or pages, numbered consecutively, with a statement at the top of each additional page that the contents form part of this affidavit.

If you wish to include documents or other exhibits to support this Complaint, please refer to them as Exhibit A, B, etc. and attach them to this affidavit.

If you are relying on the information of others, please indicate this and identify the source of the information by name, providing contact information, if possible.

If you are filing this Complaint more than 6 months after the date the event or series of events which form the basis of the Complaint, you should review section 17. (c) of the Code of Conduct and include all necessary information regarding the reasons why your date of discovery is later than the deemed date of discovery under that section.

4. This Affidavit is made for the purposes of making a Complaint for consideration by the Integrity Commissioner and for no other purpose.

SWORN BEFORE ME at the Township of)
Wainfleet, in the Regional Municipality of)
Niagara, this _____ day of _____,)
20____)
)
)
)
)
)
)
)
)

A Commissioner for taking affidavits, etc.

Name:

Signing a false affidavit may expose you to prosecution under section 131 and 132 or 134 of the Criminal Code (Canada) and also to civil liability for, among other things, defamation.

Notice of Collection of Personal Information pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*. Personal information contained on this form is collected under the authority of the *Municipal Act, 2001*, as amended, and will be used for the purposes of an inquiry by the Integrity Commissioner into a Complaint regarding a member of Council pursuant to the Code of Conduct. Questions about this collection may be directed to the Clerk of the Township.