

## **COUNCIL**

### **Chapter 27**

## **CODE OF CONDUCT - MEMBERS OF COUNCIL, COMMITTEES AND LOCAL BOARDS**

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#### **PREAMBLE**

Whereas elected officials of the City of Orillia recognize their obligation to act in a manner that is of high ethical standards so that their conduct will bear the closest public scrutiny;

And whereas the private interest of elected officials of the City of Orillia must not provide the appearance of or an opportunity for personal benefit;

The Council of the City of Orillia will seek to advance the public interest and shall avoid the improper use of the influence of their office, and activities that could reasonably be perceived to call into question their impartiality and/or independence.

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### Article 1 INTERPRETATION

#### 27.1.1 City - defined

"City" shall mean The Corporation of the City of Orillia.

#### 27.1.2 City property - defined

"City property" means items, services or resources which are the property of the City including but not limited to: materials, equipment, vehicles, facilities, technology, City developed computer programs of technological innovations, databases, intellectual property, City-owned images, logos, coat of arms, and supplies.

#### 27.1.3 Clerk - defined

"Clerk" shall mean the Clerk of The Corporation of the City of Orillia, or designate.

#### 27.1.4 Code - defined

"Code" shall mean this Code of Conduct as it applies to Members of Council, local boards and/or City Council Committees.

#### 27.1.5 Committee - defined

"committee" means a committee established by Council.

#### 27.1.6 Complaint - defined

"complaint" means an alleged contravention of this Code.

#### 27.1.7 Confidential information - defined

"confidential information" shall include information in the possession of the City that the City 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. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific, or technical nature, information that is subject to solicitor-client privilege and information that is deemed to be personal information. Under MFIPPA, "personal information" means recorded information about an identifiable individual, including:

- (a) Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- (b) 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;
- (c) Any identifying number, symbol or other particular assigned to the individual;
- (d) The address, telephone number, fingerprints or blood type of the individual;
- (e) The personal opinions or views of the individual except if they relate to another individual;
- (f) 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;

- (g) The views or opinions of another individual about the individual;
- (h) 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;
- (i) Information explicitly supplied in confidence;
- (j) A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons or organization;
- (k) A trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; and
- (l) A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

It also means any information that is of a personal nature to City 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. Confidential information includes, but is not limited to the following information:

- (a) Disclosed or discussed at a Closed Session meeting of Council Committee;
- (b) Circulated to Members of Council and marked "Confidential"; and
- (c) Information that is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information:
  - (i) Personal matters about an identifiable individual(s);
  - (ii) Information about suppliers provided for evaluation which might be useful to other suppliers;
  - (iii) Matters relating to legal affairs of the City;
  - (iv) Sources of complaints where the identity of the complainant is given in confidence;
  - (v) Items under negotiations; and
  - (vi) Matters identified as solicitor-client privileged.

#### **27.1.8 Constituent - defined**

"constituent" means the person or persons represented by the elected officials of Council.

#### **27.1.9 Council - defined**

"Council" shall mean the Council of the Corporation of the City of Orillia.

#### **27.1.10 Employee - defined**

"employee" shall mean a person employed by the Corporation of the City of Orillia or local board, including those employed on a personal services contract, and volunteers, but does not include Members of Council.

**27.1.11 Integrity Commissioner - defined**

"Integrity Commissioner" means the Integrity Commissioner appointed by Council pursuant to the *Municipal Act*, 2001.

**27.1.12 Local board - defined**

"local board" means a board, committee, etc., established or exercising any power under any Act, except a school board, a conservation authority, a police services board or a public library board.

**27.1.13 Media - defined**

"media" includes an entity such as radio, television, newspaper, magazine, websites or other online resources.

**27.1.14 Member - defined**

"member" means a member of Council, a local board or committee member.

**27.1.15 Member of Council - defined**

"Member of Council" means the Mayor or Ward Councillor of the Corporation of the City of Orillia.

**27.1.16 Official duties - defined**

"Official duties" shall mean those activities that are reasonably related to a Member's office, taking into consideration the different interest, the diverse profiles of their locations and their different roles on Committees, agencies, boards and commissions.

**27.1.17 Official event - defined**

An "official event" shall mean, an event where Council has authorized or endorsed an initiative or that is required to be held or attended by representatives of the municipality.

**27.1.18 Pecuniary interests - defined**

"pecuniary interests" shall mean 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.

**27.1.19 Personal interest - defined**

A "personal interest" shall mean, an interest that can include bias or undue influence that could reasonably call into question their impartiality and/or independence, as weighed upon the grounds of a reasonable person in comparable circumstances.

**27.1.20 Reasonable person - defined**

A "reasonable person" shall mean a person who is apprised of all the circumstances.

## Article 2 AUTHORITY

**27.2.1 Authority - *Municipal Act*, 2001, S.O. 2001**

Section 223.2 of the *Municipal Act*, 2001, S.O. 2001, as amended, requires municipalities to establish, by by-law, a Code of Conduct for Members of Council and local boards.

## Article 3 PURPOSE

**27.3.1 Purpose**

The Code of Conduct sets a minimum standard for the ethical behavior of Members of Council, committees and local boards while they fulfill their mandate and establishes guidelines for appropriate behaviour to ensure that:

- (a) The decision-making process of Council is open, accountable and transparent;

- (b) Decisions are made through appropriate channels of government structure;
- (c) Differences are respected and the duty to work together for the common good is recognized;
- (d) The conduct of all members is of the highest standard.

This Code of Conduct is meant to supplement existing legislation governing the conduct of Members of Council, committees and local boards including but not limited to:

- (a) The *Municipal Act*, 2001, S.O. 2001, c. 25;
- (b) The *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M. 50;
- (c) The *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M. 56;
- (d) The *Municipal Elections Act*, 1996, S.O. 1996, c. 32;
- (e) The *Human Rights Code*;
- (f) The *Occupational Health and Safety Act*; and
- (g) The *Criminal Code of Canada*.

#### **Article 4 APPLICATION**

##### **27.4.1 Application**

This Code of Conduct applies to the Mayor and all Members of Council and members of the public appointed to committees and local boards by Council.

#### **Article 5 GENERAL STANDARDS OF CONDUCT**

##### **27.5.1 Statements - honest**

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 or members of the public.

##### **27.5.2 Serve - constituents - conscientious - diligent manner**

Members shall at all times serve and be seen to serve their constituents in a conscientious and diligent manner.

##### **27.5.3 Conduct - avoid - aggressive - abusive**

Members will conduct their dealings with each other in ways that maintain public confidence in the position to which they have been elected or appointed. Members will be open and honest, focus on issues rather than personalities, and avoid aggressive, offensive or abusive conduct.

##### **27.5.4 Disparaging remarks - refrain**

Members shall refrain from making disparaging remarks about other Members of Council, members of the public or about Council's process and decisions.



**27.5.5 Commitment - accountability - transparency**

Members shall be committed to performing their functions with integrity, accountability and transparency and in accordance with City Policy 1.13.1.1 - Accountability and Transparency.

**Commentary**

Members of Council and Committees should not extend, in their discharge of their official duties preferential treatment to family members, organizations or groups in which they or their family member have a personal interest.

**27.5.6 Compliance - legislation - policies - procedures**

It shall be the duty of all members to abide by all applicable legislation, policies and procedures pertaining to their position as a member.

**27.5.7 Financial activity - inconsistent**

Members shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of official duties to the City or committee/local board.

**27.5.8 Discharging - official duties**

Every member in exercising his or her powers and in discharging his or her official duties shall, in accordance with the *Municipal Act, 2001*, and *Municipal Conflict of Interest Act*:

- (a) Seek to advance the common good of the City of Orillia;
- (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.

**Article 6****ROLE OF COUNCIL - COMMITTEES - LOCAL BOARDS****27.6.1 Roles and responsibilities - role of Council**

Council is responsible for and dedicated to providing good and effective government for the public in an open, accountable and transparent manner.

**27.6.2 Council as a whole - authority**

Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for committees. Authority to act on behalf of Council, including through a committee, can only be delegated by Council or through law.

**27.6.3 Council - accountabilities**

All 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 behavior and integrity;
- (d) Must avoid conflict of interest;
- (e) Must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect.

#### **27.6.4 Roles and responsibilities - Head of Council**

The Head of Council must adhere to the provisions contained in City Policy 1.2.5.1. - Head of Council.

#### **27.6.5 (a) Roles and responsibilities - committee members**

Committee members must adhere to the provisions outlined in City Policy 1.3.1.2. - Statement of Rights and Responsibilities for Council Appointees to Volunteer Boards and Committees.

Members of the public appointed to committees or local boards 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 committee or the local board unless mandated to do so. Members of the public appointed to committees and local boards must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.

Committees and local boards operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.

No committee/local board member may act beyond the mandate of the committee or local board granted by Council, except:

- (a) As granted the right to do so by Council;
- (b) Pursuant to the duties of a Member of Council; or
- (c) Otherwise if required by law.

#### **27.6.5 (b) Roles and responsibilities - Council Committee members**

The minutes of a committee meeting shall be the official record of the position of the committee; Members of Council appointed to committees shall not impugn or malign a debate or decision of Committee.

#### **Commentary**

As a committee's function is advisory in nature and the final decision on recommendations made by the committee rests with Council, a Councillor Committee Member may take into account other matters beyond those considered by the committee when he or she votes at Council and may take a position different from that taken by the committee.

#### **27.6.6 Media communications**

Members of Council will accurately communicate the decisions of Orillia City Council, even if they disagree with the majority decision of Council and voted in the minority.

## **Article 7 CONDUCT AT COUNCIL AND COMMITTEE MEETINGS**

#### **27.7.1 Conduct at Council Meetings**

Conduct of Members at Council meetings shall be in accordance with the provisions outlined in Chapter 22 Council Procedure of the Municipal Code.

**27.7.2 Conduct at Council Committee Meetings**

Conduct of Members at Council Committee meetings shall be in accordance with the provisions outlined in Chapter 12 Council Committee Procedure of the Municipal Code.

**27.7.3 Conduct at Committee/Local Board Meetings**

Conduct of Members at a committee or local board meeting shall be in accordance with the provisions outlined in Chapter 105 Local Board Procedure of the Municipal Code.

**27.7.4 Use of electronic devices**

Use of electronic devices by members shall be in accordance with City Policy 1.2.6.1. - Use of Blackberry/Cellular Devices.

## **Article 8 CONFIDENTIAL INFORMATION**

**27.8.1 *Municipal Act, 2001***

The Council of the Corporation of the City of Orillia is committed to providing accountable, transparent and open government to its citizens. City Policy 1.13.1.1. - Accountability and Transparency outlines the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public (pursuant to the *Municipal Act, 2001* as amended).

Sections 239(2) and 239(3) of the *Municipal Act, 2001* permit the City to withhold some information if deemed confidential. The *Municipal Freedom of Information and Protection of Privacy Act* contains mandatory and discretionary rules on the lawful disclosure of information. For the purposes of the Code of Conduct, the definition of “confidential information” contained in Article 27.1.7 also includes the type of information contained in MFIPPA and sections 239(2) and 239(3) of the *Municipal Act, 2001*.

**27.8.2 *Municipal Freedom of Information and Protection of Privacy Act, 1990***

The *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990*, as amended, restricts and prohibits the disclosure of 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.

**27.8.3 Closed Session - remain confidential**

A matter that has been discussed at a closed session 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 session meeting including memorandums and staff reports that are distributed for consideration during the closed session meeting to anyone, unless specifically authorized by City Council resolution or required by law.

Therefore, it is expected that:

- (a) Members shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the closed session deliberations to anyone, unless expressly authorized by Council or required by law to do so;
- (b) Members will keep information confidential until the matter ceases to be confidential, as determined by Council;
- (c) Members will release information in accordance with the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990*, Chapter M.56.

**27.8.4 Use of confidential information - prohibited**

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 City, Council, Committee, local board, or others.

**27.8.5 Access to confidential information - performance of their duties**

Members of Council shall not access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by Council policy.

**27.8.6 Access to confidential information - relevant - City - matters**

Members are only entitled to information in the possession of the City 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.

**Article 9  
CONFLICT OF INTEREST****27.9.1 *Municipal Conflict of Interest Act, R.S.O. 1990***

Members of Council shall be responsible for ensuring that they are familiar with the *Municipal Conflict of Interest Act*.

**Article 10  
INTERPERSONAL BEHAVIOUR OF MEMBERS OF COUNCIL****27.10.1 Interpersonal behaviour of Members of Council**

All Members must adhere to the provisions contained in City Policy 5.1.2.1. - Workplace Harassment, Workplace Sexual Harassment and Workplace Violence - Prevention and Intervention.

**Article 11  
USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES****27.11.1 Computer, E-mail and Internet Acceptable Use Guidelines**

All Members must adhere to the provisions contained in the City's Computer, E-mail and Internet Acceptable Use Guidelines.

**Article 12  
RELATIONSHIPS WITH EMPLOYEES****27.12.1 Mutual respect**

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.

**27.12.2 Council - duly elected**

Employees have an obligation to recognize that Members of Council have been duly elected to serve the residents of Orillia and respect the role of Council in directing the actions of the City.

**27.12.3 Employees - under direction - Chief Administrative Officer**

Employees serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. 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.

**27.12.4 Members - inquiries**

Inquiries of employees from Members should be directed to the Chief Administrative Officer or the appropriate Senior Management as directed by the Chief Administrative Officer.

**27.12.5 Council - as a whole - direct employees**

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.

**27.12.6 Role of employees - political neutrality**

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 City.

**27.12.7 Employees - act impartially**

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.

**27.12.8 Influence - administration of justice**

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.

**27.12.9 Interference - employee duties**

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

**27.12.10 Delegated authority**

Members must adhere to the provisions contained in City Policy 1.13.1.2. - Delegation of Powers and Duties, as well as City Policy 1.2.1.7. - Council-Staff Relations

### **Article 13 ACCEPTANCE OF GIFTS AND BENEFITS**

**27.13.1 Acceptance of gifts and benefits**

Members shall not accept fees, gifts, hospitality, or personal benefits that are connected directly or indirectly with the performance of duties as Members of Council, except as:

- (a) compensation authorized by law;
- (b) such gifts or benefits that are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law;
- (d) a suitable memento of an official function or duty of office;
- (e) food, transportation or hospitality provided by provincial, regional and local governments or organizational subdivisions of them, Federal government or by a foreign government,

or by a conference, seminar or event organized where the Member is either speaking or attending in an official capacity at an official event;

- (f) tickets for charitable, not for profit and/or other community events, food and beverages consumed at banquets, receptions or fundraising events if:
- i) attendance serves a legitimate public duty purpose; and
  - ii) the value of the benefit received is reasonable.

### **Commentary**

Members will be expected or required to extend hospitality to external parties as part of their official duties. Members are to follow the City's allowable expense policy ensuring that their expenses are modest, representing a prudent use of public funds.

### **27.13.2 Personal privilege**

No member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to services not otherwise available to the general public and not consequent to his or her official duties.

## **Article 14 ENFORCEMENT/BREACH OF CODE OF CONDUCT**

### **27.14.1 Code of Conduct - breach - penalty**

Members found to have breached this Code may be subject to discipline, including return of a gift or benefit, loss of Chairmanship, censure, a reprimand or, where applicable, suspension of remuneration paid for his or her services as a member, for a period of up to ninety days.

In addition to the Code of Conduct, Members of Council are accountable to the public through the four-year election process. Additionally, Members are also accountable pursuant to the rules of other legislation. 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*.

At the beginning of each term, each Member of Council will be invited to:

- (a) sign two copies of the Code of Conduct;
- (b) submit to the Integrity Commissioner, an explanatory statement of all community organizations in which they participate. Within 60 days, the Integrity Commissioner will review the explanatory statement and advise the Member on recommendations steps to ensure avoidance of a conflict between the exercise of the Member's public duty and a personal interest.

### **Commentary**

Signing copies of the Code is an outward demonstration by the Member that he or she is committed to uphold the spirit and the letter of the Code rules. Should a Member of Council elect not to sign the Code, they remain bound by its rules.

### **27.14.2 Integrity Commissioner - appoint**

Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code. Any individual, including members of the public, City employees, and Members of Council, who has reasonable grounds to believe that a member has breached a provision of the Code may proceed with a complaint.

**27.14.3 Complaint - six weeks - six months - limitation**

Any individual, employee, member or member of the public having reasonable grounds to believe that a member has breached this Code, may proceed with a complaint. Complaints must be submitted within six weeks of the matter becoming known to an individual. Further, the alleged violation is not to have occurred more than six months from the time the complaint is filed. No action will be taken on a complaint received beyond these deadlines except as provided for in Section 27.14.21.

**27.14.4 Complaint - informal - procedure**

Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code may address their concerns in the following manner:

- (a) Advise the member that their behaviour or activity contravenes the Code;
- (b) Encourage the member to stop the prohibited behaviour or activity;
- (c) If applicable, confirm to the member 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, an individual may proceed with a formal complaint through the Integrity Commissioner as outlined in section 27.14.5.

**Commentary**

Individuals are encouraged to pursue this informal complaint procedure as a means of remedying a behaviour or activity that they believe violates the Code of Conduct. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role to assist in an informal resolution of the complaint. However, while following the informal procedure is not a prerequisite to filing a formal complaint, the Integrity Commissioner will strongly recommend pursuing the informal complaint procedure prior to initiating the formal complaint investigation process.

**27.14.5 Complaint - formal - procedure**

Any individual who has identified or witnessed behaviour or activity by a member that appears to be in contravention of the Code may address their concerns through the formal complaint process set out below:

- (a) All formal complaints must be made using the City's Formal Complaint Form/Affidavit (see Schedule "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 and any evidence in support of the allegation must be included with the Formal Complaint Form/Affidavit;
- (c) Any witnesses in support of the allegation must be identified on the Formal Complaint Form/Affidavit;
- (d) The Formal Complaint Form/Affidavit must include the name of the member alleged to have breached the Code, the section of the Code 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 Clerk who shall forward the matter to the Integrity Commissioner. The Integrity Commissioner shall make an initial determination on whether the information is complete as to a), b), c) and d) of this section and whether the

matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or policies.

- (f) The Integrity Commissioner may request additional information from the complainant.

#### **27.14.6 Response of Integrity Commissioner - outside jurisdiction**

If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to non-compliance with the Code, the Integrity Commissioner shall advise the complainant in writing as follows:

- (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 FOI Coordinator to have the matter reviewed under that Act; and
- (c) **Discrimination or Harassment** - if the complaint is an allegation of discrimination or harassment, the complainant shall be advised to file a complaint directly to the Human Resources Department under City Policy 5.1.2.1. - Workplace Harassment, Workplace Sexual Harassment and Workplace Violence - Prevention and Intervention and/or will also be advised of his or her right to advance an application to the Ontario Human Rights Tribunal.

#### **27.14.7 Integrity Commissioner - refusal to conduct investigation**

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.

#### **27.14.8 Integrity Commissioner - opportunity to resolve**

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.

#### **27.14.9 Integrity Commissioner - investigation**

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*.

#### **27.14.10 Integrity Commissioner - timeframe - fourteen days**

The Integrity Commissioner shall provide a copy of the complaint and any supporting materials 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. The Integrity Commissioner shall give a copy of the response provided by the member to the complainant with a request for a written reply within fourteen days.

#### **27.14.11 Integrity Commissioner - access - documents**

If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any City work location relevant to the complaint for the purpose of investigation and potential resolution.



**27.14.12 Integrity Commissioner - interim report**

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.

**27.14.13 Integrity Commissioner - complainant - abandon complaint**

At any time the complainant may abandon the request for an investigation and the Integrity Commissioner will cease his or her investigation.

**27.14.14 Integrity Commissioner - report - ninety days**

Upon completion of an investigation, the Integrity Commissioner shall report to the complainant and the member on the results of his or her review within ninety days of receiving a complete Complaint Form/Affidavit. If the investigation process is going to take more than ninety days, the Integrity Commissioner shall provide an interim report to the complainant and member indicating when the complete report will be available.

**27.14.15 Integrity Commissioner - withdrawn - report - thirty days**

If during the investigation 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.

**27.14.16 Integrity Commissioner - breach - report - penalty**

If upon completion of the investigation 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, 2001* of:

- (a) a reprimand;
- (b) suspension of remuneration paid to the member for a period of up to ninety days.

**27.14.17 Integrity Commissioner - no breach - report - penalty**

If upon completion of the investigation, 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.

**27.14.18 Duty of Council**

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.

**27.14.19 Resolution - breach of trust**

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 investigation.

**27.14.20 Complaints - election**

During the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, and ending on voting day in a regular election, as set out in section 5 of that Act, there shall be no requests for an inquiry about whether a member of Council or of a local board has contravened the code of conduct applicable to the member.

**27.14.21 Termination of inquiry - election begins**

If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day. If an inquiry is terminated, the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the *Municipal Elections Act, 1996*, the person or entity who made the request or the

member or former member whose conduct is concerned makes a written request to the Integrity Commissioner that the inquiry be commenced.

#### **27.14.22 Complaints - reports - election**

During the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act*, 1996, and ending on voting day in a regular election, as set out in section 5 of that Act, the Integrity Commissioner shall not report to the municipality or local board about whether, in his or her opinion, a member of council or of a local board has contravened the code of conduct applicable to the member.

#### **27.14.23 Penalties**

During the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act*, 1996, and ending on voting day in a regular election, as set out in section 5 of the Act, the municipality or local board shall not consider whether to impose the penalties referred to in section 27.14.1 on a member of Council or of a local board.

#### **27.14.24 Complaints - confidentiality**

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 City 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*.

#### **27.14.25 Act - prevail**

Pursuant to section 223.5(3) of the *Municipal Act*, this section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

#### **27.14.26 Report - disclosure**

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.

#### **27.14.27 Report - annual - periodic**

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 that could identify a person concerned. 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, anonymized in respect of advice provided and the nature of complaints received and responded to. The annual report of the Integrity Commissioner shall be provided to Council Committee for information purposes. The report is a public document. The Integrity Commissioner shall file his or her annual report no later than six months after his or her initial appointment and by March 31 annually thereafter.

#### **27.14.28 Integrity Commissioner - other duties**

The Integrity Commissioner is responsible for performing in an independent manner the functions assigned by the municipality with respect to any or all of the following:

- (a) The application of the code of conduct for members of council and the code of conduct for members of local boards.
- (b) The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
- (c) The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.

- (d) Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
- (e) Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
- (f) Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
- (g) The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.
- (h) Provide an annual report to Council on the activities of the Integrity Commissioner.

#### **27.14.29 Integrity Commissioner - other duties - Request for Advice**

Where an individual member is seeking to obtain advice from the Integrity Commissioner, the member shall submit the request to the Integrity Commissioner in writing.

- (a) The Integrity Commissioner shall provide his or her advice in writing to the member.
- (b) 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.
- (c) Any written requests for advice and responses to such requests are covered pursuant to sections 223.3 (2.1) and 223.3 (2.2) of the *Municipal Act, 2001*.

#### **27.14.30 No Reprisal or Obstruction - Application or Enforcement**

Every member of Council must 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 any other person for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective.

**Adopting By-law:** By-law 2012-28, 5 March 2012.

**Repealed and Replaced:** By-law 2013-53, 22 April 2013.

**By-law Amendments:** By-law 2014-57, 23 June 2014.

**Repealed and Replaced:** By-law 2019-36, 1 April 2019.

**Schedule "A" to Chapter 27 - Code of Conduct - Members of Council, Committees and Local Boards**

**Formal Complaint Form/Affidavit**

I, \_\_\_\_\_ (full name) of the \_\_\_\_\_ (municipality) 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 Council Code of Conduct of the City of Orillia. 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 Appendix "A" form 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.)

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

(Please see the attached Appendix "A")

This affidavit is made for the purpose of requesting that this matter be reviewed by the City of Orillia appointed Integrity Commissioner and for no other purpose.

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

Identification # (of Identification provided) \_\_\_\_\_

Sworn (or Affirmed) before me at the City of Orillia, in the County of Simcoe, in the Province of Ontario on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
**Signature (to be witnessed by Commissioner) Commissioner, etc.**

**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.

