

**Meeting date:** February 19, 2019  
**Department:** Legal & Legislative Services  
**Prepared by:** Fred W. Tranquilli, Director of Legal & Legislative Services  
**Reviewed by:** Greg McClinchey, Chief Administrative Officer  
**SUBJECT:** **Code of Conduct for Members of Council and Local Boards**

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Consistent with Strathroy-Caradoc's practice of demonstrating transparent, accountable and ethical governance, staff recommend that Municipal Council adopt a Code of Conduct for Members of Council and its Boards and Committees.

## **RECOMMENDATION:**

**THAT:** This report be received for information, and

**THAT:** Council adopt the attached Code of Conduct as referenced in By-law No. 09-19.

## **BACKGROUND**

On May 30, 2017, the *Modernizing Ontario's Municipal Legislation Act, 2017*, also known as Bill 68, passed third reading and received Royal Assent. Bill 68 amends several Acts. The amendments are to legislation that affects Ontario municipalities including:

- *Municipal Act, 2001*;
- *Municipal Conflict of Interest Act*, and,
- *Municipal Elections Act, 1996*.

The Bill imposes new and important obligations on municipalities. The Bill mandates a staged approach to requiring municipalities to adopt or update certain policies.

Municipalities and local boards are required to adopt a Code of Conduct by March 1, 2019. Bill 68 contemplates that the Minister may enact regulations regarding the content of Codes of Conduct. However, it is unknown at this time whether such regulations will be brought forward. The proposed Code of Conduct, along with the recently adopted Procedure By-law, will assist the municipality to comply with Bill 68.

## **Code of Conduct Purpose & Intent**

The Code of Conduct is required to comply with Bill 68 and to establish standards of conduct for Members of Council, Local Boards and Committee Members in the individual conduct of their official duties. These standards will help protect and maintain Strathroy-Caradoc's reputation and integrity.

Maintaining a high quality of public administration and governance can be achieved in part by encouraging high standards of conduct on the part of municipal officials. The public is entitled to expect the highest standards of conduct from members that are elected or appointed to serve their local government.

A written Code of Conduct helps to ensure that the members of Council share a common basis of acceptable conduct. These standards are designed to supplement the legislative parameters within which the members must operate. They are intended to enhance public confidence that Strathroy-Caradoc's elected and appointed officials operate from a basis of integrity, justice and courtesy. Strathroy-Caradoc's Code of Conduct regulates a wide range of conduct by elected and appointed officials.

Strathroy-Caradoc's Code of Conduct addresses matters such as:

- Improper receipt of gifts and benefits;
- Misuse and improper securing of confidential information;
- Inappropriate use of City property, services and other resources;
- Allowing employment prospects to influence the way in which a Councillor performs her or his role;
- Business relations;
- Treatment of staff;
- Improper use of influence;
- Discreditable behaviour towards other Councillors, staff and members of the public; and,
- Failing to follow Council policies.

## **CONSULTATION**

Legal and Legislative Services, CAO

## **FINANCIAL IMPLICATIONS**

There are no financial implications.

## **ATTACHMENTS**

- By-law No. 09-19 CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

**THE CORPORATION OF THE MUNICIPALITY OF STRATHROY-CARADOC**

**BY-LAW NO. 09-19**

**CODE OF CONDUCT  
FOR  
MEMBERS OF COUNCIL AND LOCAL BOARDS**

Being a by-law to establish a Code of Conduct for the Council of the Corporation of the Municipality of Strathroy-Caradoc and for Members of Local Boards

**WHEREAS**, Section 9 of the Municipal Act, S.O. 2001, c.25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

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

**AND WHEREAS** the Municipal Conflict of Interest Act, R.S.O. c.M.50 addresses only conflicts involving direct pecuniary interest in the outcome of a decision making process;

**AND WHEREAS** Section 223.2 (1) of the Municipal Act, S.O. 2001, c.25, as amended authorizes a municipality to establish codes of conduct for Members of Council of the municipality and local boards of the municipality and to appoint an Integrity Commissioner to perform in an independent manner functions assigned by the municipality relating to the application of the code of conduct;

**AND WHEREAS** the Council of the Corporation of the Municipality of Strathroy-Caradoc deems it expedient to adopt a new Code of Conduct policy for members of Municipal Council and Local Boards;

**NOW THEREFORE** the Council of the Corporation of the Municipality of Strathroy-Caradoc hereby enacts this Code of Conduct for Members of Municipal Council as well as Members of Local Boards, attached hereto as follows:

**ADOPTION**

That this 'Code of Conduct' be and is hereby adopted.

**SEVERABILITY**

That in the event that any section, sections or parts of this by-law 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 the full force and effect.

## **EFFECTIVE DATE**

This by-law shall take effect on March 1, 2019.

## **CODE OF CONDUCT**

The Municipality of Strathroy-Caradoc is committed to achieving the highest quality of municipal administration and governance by encouraging high standards of conduct on the part of all elected and appointed officials. A Code of Conduct aims to ensure public trust and confidence in the Municipality's decision-making and operations. Adherence to these standards will protect and maintain integrity and fairness in the decision-making process of the Municipality and the local Boards.

The Municipality of Strathroy-Caradoc Code of Conduct is a complement to the existing legislation governing the conduct of Members of Council.

The following federal and provincial legislation govern the conduct of Members of Council:

- *the Municipal Act, 2001;*
- *the Municipal Conflict of Interest Act;*
- *the Municipal Elections Act, 1996;*
- *the Municipal Freedom of Information and Protection of Privacy Act;*
- *the Provincial Offences Act;*
- *the Ontario Human Rights Code;*
- *the Criminal Code of Canada; and*
- the by-laws and policies of Council as adopted and amended from time to time.

### **1. Application**

Members of the Municipality of Strathroy-Caradoc Municipal Council and Members of Local Boards are expected to adhere to the provisions of this Code of Conduct.

### **2. Definitions**

In this Code of Conduct, the terms "child", "parent" and "spouse" have the same meanings as in the *Municipal Conflict of Interest Act*, R.S.O. 1990 c.M.50, as amended:

"child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

"member" means an individual elected to municipal council or appointed by municipal council to a local board or agency;

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

### **3. General Integrity**

- 3.1 Members are committed to performing their functions with integrity, accountability and transparency when possible.
- 3.2 Members are responsible for complying with all applicable legislation, by-laws and policies pertaining to their positions.
- 3.3 Members recognize that the public has a right to open government and transparent decision-making.
- 3.4 Members shall at all times serve and be seen to serve the interests of their constituents and the Municipality in a conscientious and diligent manner and shall approach decision-making with an open mind.
- 3.5 Members shall avoid the improper use of the influence of their office and shall avoid conflicts of interest, both apparent and real.
- 3.6 In the discharge of their official duties, Members shall not extend preferential treatment to any individual or organization if a reasonably well informed person would conclude that the preferential treatment was solely for the purpose of advancing a Member’s private or personal interest.
- 3.7 For greater clarity, this Code does not prohibit members of Municipal Council from properly using their influence on behalf of constituents.

### **4. Conflict of Interest**

- 4.1 Members shall be responsible to ensure that they are familiar with the application of the *Municipal Conflict of Interest Act*. It is the responsibility of each Member to determine whether they have a direct or indirect pecuniary interest with respect to matters being discussed by or decided or voted upon. If there is any concern as to the possibility of a conflict, it is the responsibility of individual Member to obtain independent legal advice at their own expense.

The following principles should be used as a guide by Members:

- (a) In making decisions, they should always place the interests of the broader community first and, in particular, place the community's interests before the interests of colleagues, staff, friends, or family;
- (b) It is best to always interpret the phrase "Conflict of Interest" in the broadest possible terms; and
- (c) Where a matter giving rise to a potential conflict of interest is before Council or a local board for discussion or a decision, it is best to obtain independent legal advice before participating in discussing or voting on the matter, and best to declare a conflict until such advice has been obtained.

## 5. Confidential Information

5.1 By way of their office, Members acquire confidential information from a variety of different sources including but not limited to confidential personal information related to members of the public who have contacted their office, confidential information relating to matters before Municipal Council, and personal information of employees.

- (a) Confidential information includes information in the possession of, disclosed to, or received in confidence by the Municipality or Members which, pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), the *Municipal Act 2001*, the terms of a contract or a call for bids and tenders, or by operation of law, the Municipality is either prohibited from disclosing (for example, personal information), or is permitted to maintain in confidence (for example, legal advice).
- (b) A Member shall not use or disclose information received or obtained in their capacity as a member which is not available to the general public to further or seek to further the member's private interest or to improperly further or seek to further another person's private interest.
- (c) Members shall not 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 when required by law or authorized to do so by the custodian of the information.
- (d) For the sake of greater clarity, and without limiting the generality of the foregoing statements, where a matter has been properly discussed in closed session, and where the matter remains confidential, Members shall not disclose the content of the matter or the substance of the deliberations of the closed session except when required by law or authorized to do so by the Council or Board.

## 6. **Conduct at Meetings**

6.1 Members shall conduct themselves with decorum at all meetings in accordance with the provisions of the Procedure By-law, this Code and other applicable law.

## 7. **Discrimination and Harassment**

7.1 All Members have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. In their dealings with other Members, staff and administration, and the general public, Members are required to adhere to the *Ontario Human Rights Code* and the Municipality's *Respect in the Workplace (Harassment and Violence)* Policy in force at the time.

## 8. **Improper Use of Influence**

8.1 Members are expected to perform their duties of office with integrity, accountability and transparency. Members should not use the status of their position to secure the exclusive or extraordinary provision of a municipal service or to influence the decision of another individual, to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. Furthermore, no Member shall use the influence of their office for any purpose other than for the lawful exercise of his or her official duties and for a municipal purpose.

8.2 In the same manner, Members shall not attempt to use their position to interfere with employees, officers or other persons performing their statutory duties under the *Provincial Offences Act*, the *Building Code Act*, the *Fire Protection and Prevention Act*, the *Planning Act*, the *Drainage Act*, the *Police Services Act* or similar legislation.

## 9. **Use of Municipal Property and Resources**

9.1 In order to fulfill their roles as representatives, Members may have access to public resources such as property, equipment, services, staff and supplies. No Member shall use, or permit the use of municipal/public land, facilities, equipment, supplies, services, staff or other resources (for example, municipally owned materials, websites, or a Member of Council allotment of budget) for activities other than purposes connected with the discharge of Council, Board or Commission duties or municipal business, except in a manner and to the same extent that the use of such property and resources is available to all residents of the Municipality.

- 9.2 No Member shall obtain financial gain from the use or sale of municipal-developed intellectual property, computer programs, technological innovations, or other patent, trademark, copyright held by the Municipality or Board.
- 9.3 Members of Council must also adhere to the Municipality's Use of Corporate Resources Policy.

## 10. **Conduct Respecting Municipal Staff**

- 10.1 The *Municipal Act, 2001* sets out the roles of Members of Council and the municipal administration, including specific roles for statutory officers such as the Chief Administrative Officer, Clerk, Treasurer, and Integrity Commissioner.
- 10.2 The Municipality's Council as a whole has the authority to approve budget, policy, governance and other such matters. Under the direction of the Chief Administrative Officer, the staff serves the Municipal Corporation as a whole and the combined interests of all Members as evidenced through the decisions of Council.
- 10.3 Municipal staff are expected to undertake research and provide advice to council on Municipal policies and programs, carry on the business of running the Municipality, implement council decisions, establish administrative practices and procedures to carry on municipal operations and implement council decisions, and carry out such other duties as may be required under the *Municipal Act, 2001*, and other relevant legislation.
- 10.4 Members of Council shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual Member or group of Members of Council.
- 10.5 Members of Council are expected to:
  - (a) Represent the public and to consider the well-being and interests of the Municipality;
  - (b) Develop and evaluate the policies and programs of the Municipality;
  - (c) Determine which services the Municipality provides;
  - (d) Ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
  - (e) Ensure the accountability and transparency of the operations of the Municipality, including the activities of the senior management of the Municipality;



- (f) Maintain the financial integrity of the Municipality; and carry out the duties of council as set forth in the *Municipal Act, 2001* and other applicable legislation;
- (g) Respect the difference between the policy development role of Council and operational/implementation role of Administration;
- (h) Direct any criticisms of or concerns regarding staff to the Chief Administrative Officer and refrain from criticizing municipal staff in public or to the media;
- (i) Be mindful of, respect and adhere to the Municipality's Respect in the Workplace (Harassment and Violence) Policy;
- (j) Not be entering into private staff offices or municipal workspaces restricted to employee use or entry without invitation, permission or appointment.

10.6 Members shall not:

- (a) Maliciously or falsely injure the professional or ethical reputation, or the prospects of staff;
- (b) Compel staff to engage in partisan political activities or be subjected to threats or discrimination for engaging or refusing to engage in such activities;
- (c) Use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff member's duties or compelling a staff member to perform a task outside of his or her assigned duties;
- (d) Question or attempt to direct the activities of staff or departments except through the established channels of authority;
- (e) Attempt to direct staff or departments or contact staff for reasons having to do with the affairs of the Municipality or Board after business hours except in the event of an emergency.

## 11. Expenses

- 11.1 Members are required to adhere to relevant policies, procedures and guidelines with respect to any expenses such as, but not limited to, mileage reimbursement, conference and seminar attendance, and corporate promotional products.
- 11.2 Falsifying of receipts or signatures by a Member is a serious breach of this Code of Conduct and the *Criminal Code of Canada* and could lead to prosecution.

## 12. **Gifts, Benefits and Hospitality**

- 12.1 Members are expected to represent the public and the interests of the Municipality or Board and to do so with both impartiality and objectivity. The acceptance of a gift, benefit or hospitality can imply favouritism, bias or influence on the part of the Member. At times, the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of a Member and their role in representing the Municipality or Board.
- 12.2 Members shall not accept gifts that would, to a reasonably well informed member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved. For these purposes, a gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent is deemed to be a gift to that Member.

## 13. **Election-Related Activity**

- 13.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and the Municipality's Use of Corporate Resources Policy. The use of municipal resources, both actual municipal property and staff time, for election-related activity is strictly prohibited. The prohibition applies to both the promotion and opposition to the candidacy of a person for elected office. Election-related activity applies not only to a Member's personal campaign for office, but also other campaigns for municipal, provincial and federal office.

## 14. **Alleged Contravention**

- 14.1 Where there are reasonable grounds to believe, on the basis of information received by Council, that there has been a contravention of this Code of Conduct, Council may refer the matter to an Integrity Commissioner appointed by the Municipality for the purpose of undertaking an independent investigation and/or inquiry pursuant to the *Municipal Act, 2001* and to report their findings to the Municipality. In such a case, and without limiting the independence of the Integrity Commissioner, reasonable efforts shall be made to follow the complaint procedure attached.

Failure to strictly follow the procedure shall not invalidate the decision of Council to refer the matter to an Integrity Commissioner, nor affect the legitimacy of the resulting Investigation, Inquiry, or conclusions of the Integrity Commissioner.

## 15. **Sanctions**

15.1 Where an Integrity Commissioner has reported to Council that, in his or her opinion, a Member has contravened this Code of Conduct, The *Municipal Act, 2001* authorizes Council to impose one of the following sanctions:

- (a) A reprimand;
- (b) Suspension of the remuneration paid to the member in respect of his or her services as a Member for a period of up to 90 days.

15.2 Where the Integrity Commissioner has found there to be a contravention of this Code of Conduct, the Integrity Commissioner may also, at his or her discretion, recommend and Council may impose one of the following sanctions on the Member in question:

- (a) Formally request the Member to provide a written or oral public or private apology;
- (b) Require that the Member return to the Municipality or Board or reimburse the Municipality or Board in respect of property, services, or money that has been taken, accepted, or used in contravention of this Code of Conduct;
- (c) Remove the Member from his or her position as a member of or chair of a committee.

15.3 In exercising its powers to sanction the conduct of a Member, Council should endeavour to impose a sanction which is proportionate to the nature of the contravention, with due regard to mitigating and aggravating factors, prior findings of contravention, and the concept of graduated sanctions for repeat or more serious contraventions.

## 16. **No Reprisal or Obstruction in the Application or Enforcement of this Code**

16.1 Every Member shall respect the integrity of this Code of Conduct, and any 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 information in response to, pertaining to or relevant to a complaint, investigation or inquiry is prohibited and is a contravention of this Code.

## 17. **General**

17.1 In cases of conflict or confusion, the Chief Administrative Officer (CAO) shall be empowered to make any and all necessary alterations or clarifications needed to ensure the equitable and effective application of this policy.

- 17.2 Minor grammatical, formatting, spelling, and/or typographical changes or corrections that do not alter the intent of this policy/document may be made, as necessary, by the CAO and/or the Director of Legal and Legislative Services. Grammatical, formatting, spelling, and/or typographical changes shall not alter or diminish the effect of the directives contained herein.
- 17.3 This Policy shall be reviewed from time-to-time by the Director of Legal and Legislative Services.

## APPENDIX I

### CODE OF CONDUCT COMPLAINT PROCEDURE

#### PART A: INFORMAL PROCEDURE

Any individual who believes that the behaviour or conduct of a Member has contravened or is in contravention of this Code of Conduct may address the prohibited behaviour or activity in the following informal manner:

- (a) Advise the Member of the behaviour or activity which appears to contravene the Code of Conduct.
- (b) Encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity, to avoid future occurrences of the prohibited behaviour or activity; and to take such steps as are reasonably required to provide redress or remediation for such behaviour or activity.

Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying behaviour or an activity that they believe violates the Code of Conduct. However, engaging in the informal process is not a precondition or a prerequisite to pursuing the formal complaint procedure outlined in Part B.

#### PART B: FORMAL PROCEDURE

##### 1. Formal Complaints and Council Referrals

Any individual who believes that behaviour or conduct of a Member is in contravention of this Code of Conduct may commence a formal complaint in the following manner:

- (a) A complaint by an identified individual shall be made by sworn affidavit in the form attached as Appendix II.
- (b) The complaint must set out reasonable and probable grounds for their belief that the Member has contravened the Code of Conduct, including provisions of the Code of Conduct which are alleged to have been contravened, particulars as to the date(s) and nature of the alleged contravention(s), any witnesses who it is believed will support the allegation(s).
- (c) The complaint shall be filed with the Municipal Clerk who, under the direction of the Chief Administrative Officer of the Municipality shall determine whether the complaint appears on its face to be a complaint with respect to a possible contravention of one or more provisions of the Code of Conduct. If the complaint is determined to not constitute a complaint with respect to a possible contravention of one or more provisions of the Code of Conduct, the complainant shall be notified in writing to this effect. If the complaint is determined on its face to constitute a *bona fide* complaint with respect to a possible contravention of one or more provisions of the Code

of Conduct, it shall then be referred to Council within 30 days of being made, for Council to determine whether the matter shall be referred to an Integrity Commissioner.

- (d) In addition to the foregoing, and with or without a formal complaint having been made by an individual, on the motion of one or more Municipal Councillors specifying the particulars of an alleged contravention of the Code of Conduct, Council may direct that an allegation of a contravention of the Code be referred directly to an Integrity Commissioner for review or may, in the appropriate case, proceed of its own accord and on a summary basis to determine whether there has been a contravention and determine whether sanction is warranted.
- (e) A Municipal Councillor who is the subject of a motion with respect to a complaint or an alleged contravention shall be permitted to be present for consideration of, engage in discussion regarding, and vote on such motion.
- (f) A motion concerning referral of a complaint or alleged contravention to an Integrity Commissioner shall be presented in open session unless the subject matter or nature of the complaint is such that the matter is properly the subject of a closed session pursuant to the provisions of the *Municipal Act, 2001*.
- (g) Where a referral is being made to an Integrity Commissioner, the Municipal Clerk shall endeavour to have the complaint or motion to refer and all relevant documentation in possession of the Municipality forwarded to the Integrity Commissioner within 30 days of the decision to refer the matter to the Integrity Commissioner.
- (h) At any point during the processes described herein, Council may withdraw the referral of a complaint or alleged contravention to an Integrity Commissioner, or agree to a resolution of the complaint or allegation without further investigation, inquiry or report.

## **2. Review and Classification by Integrity Commissioner**

Upon referral of a complaint or referral on motion of Municipal Council the Integrity Commissioner shall determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and whether the complaint is more appropriately the subject of other legislation or other Council policies.

If the complaint or referral does not include a supporting affidavit, the Integrity Commissioner may defer the classification until an affidavit or further information is received.

### 3. Integrity Commissioner Jurisdiction

The jurisdiction of the Integrity Commissioner shall be limited firstly, to determining whether the matter is a complaint with respect to contravention of the Code of Conduct and secondly to whether there has been a contravention of the Code of Conduct. The Integrity Commissioner may also make recommendations in the event that he or she concludes that there has been a contravention of the Code of Conduct but such recommendations are not binding on council.

### 4. Complaints Outside Integrity Commissioner's Jurisdiction

If the Integrity Commissioner finds that a complaint is not, on its face, a complaint with respect to contravention of the Code of Conduct, or the complaint is covered by other legislation or a complaint procedure under another policy of the Municipality, the Integrity Commissioner shall advise the complainant in writing as follows:

- (a) **Criminal Matter**  
If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate Police Service.
- (b) ***Municipal Conflict of Interest Act***  
If the complaint on its face is regarding non-compliance with the *Municipal Conflict of Interest Act* as opposed to the Code of Conduct, the complainant shall be advised to review the matter with the complainant's own legal counsel.
- (c) ***Municipal Freedom of Information and Protection of Privacy Act***  
If the complaint does not involve a contravention of the Code of Conduct, but may be addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant may be advised that the matter must be referred to the Municipal Clerk for review under the Act.
- (d) **Other Policy Applies**  
If the complaint appears to more appropriately fall under another policy, the complainant shall be advised to pursue the matter under such policy.
- (e) **Lack of Jurisdiction**  
If the complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner, the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.
- (f) **Matter Already Pending**  
If the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding related to the *Municipal Conflict of Interest Act*, a Human Rights complaint or similar process, the Integrity Commissioner may, in his/her sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process.

**5. Refusal to Conduct Investigation**

If at the outset or during the course of an investigation the Integrity Commissioner determines that the complaint or matter referred to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct or may terminate an investigation. The Integrity Commissioner shall communicate this position in writing to the complainant and Council.

**6. Opportunities for Resolution**

Following receipt and review of a formal complaint, or at any time during the investigation, where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without commencing, continuing or completing a formal investigation, efforts may be pursued on a “without prejudice basis” to achieve an informal resolution.

**7. Investigation and Inquiry**

In the conduct of his or her investigation, the Integrity Commissioner will be directed to proceed as follows:

- (a) Within thirty (30) days of the Integrity Commissioner having received the referral of the complaint or motion, the Integrity Commissioner shall provide to the member whose conduct is in question a copy of the complaint or motion and supporting material together with a request that the member provide a written response to the allegation within fifteen (15) business days, or such longer period of time as the Integrity Commissioner may permit.
- (b) Upon receipt of the Member’s response, the Integrity Commissioner shall Provide a copy of the response to the complainant or Council with a request for delivery any written reply within fifteen (15) business days or such longer period of time as the Integrity Commissioner may permit, and any reply received together with any further relevant documentation shall then be provided to the Member.
- (c) 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 Municipal workplace for the purpose of investigation and potential resolution, unless prohibited by law, with the facilitation and assistance of the Chief Administrative Officer.
- (d) The Integrity Commissioner shall be directed to use best efforts to interview both the complainant and member whose conduct is in question to afford them full opportunity to respond to information that has been obtained, to provide further information, and to explain their positions.
- (e) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation.



- (f) The Integrity Commissioner shall retain all records related to the complaint and investigation until the conclusion of the investigation. Once the investigation and reporting has been completed, the original documents shall be provided to the Chief Administrative Officer for permanent retention by the Municipality. The documents shall only be made available for the review of others in accordance with the relevant statute or by Council resolution. If there is a finding of a contravention, such records may be accessed by the Integrity Commissioner in the event of future complaints concerning the same Member without a Council resolution.
- (g) The Integrity Commissioner may vary these time lines or this process where he or she determines that, in the interests of fairness, it is appropriate or necessary to do so.
- (h) If the Integrity Commissioner determines that sections 34 and 35 of the *Public Inquiries Act, 2009* should be invoked, the foregoing provisions shall only apply to the extent that they do not conflict with the provisions of that Act, and where there is conflict, that Act shall govern.

## **8. No Complaint Prior to Municipal Election**

No complaint may be referred to the Integrity Commissioner, or forwarded by the Municipal Clerk for review and/or investigation after the last meeting of Council in June, in any year in which a regular municipal election will be held.

The Integrity Commissioner shall not make any report to Council or to any other person after the last Council meeting of June in any year in which a regular municipal election is to be held, until the first official meeting of Council following the inaugural session of Council.

## **9. Report**

The Integrity Commissioner shall endeavour to report to the complainant, Council and the Member within ninety (90) days after the official receipt of the complaint or referral. If the investigation process takes more than ninety (90) days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date that the final report will be available.

Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the reasons or basis for the findings, the terms of any proposed resolution and/or any recommended corrective action or sanction.

Where the complaint is not sustained the Integrity Commissioner shall report that the complaint or referral has been investigated and that no contravention was found.

10. **Member not Blameworthy**

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 may so state in the report.

11. **Report to Council**

Upon receipt of the report of the Integrity Commissioner, the Municipal Clerk shall include the report on the next regular Council meeting agenda. Where the report indicates that a contravention has been found Council may then, having regard to all of the circumstances, including but not limited to the findings of the report, the seriousness of the contravention, previous findings of contravention, and the mischief, if any, occasioned by the contravention, as well as the importance of the member being able to fulfill his or her mandate as a Councillor, vote on whether to accept the report, and vote on whether it is necessary and appropriate to impose any sanction recommended by the Integrity Commissioner or available under the *Municipal Act, 2001*.

12. **Public Disclosure**

The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law or this complaint protocol.

The Integrity Commissioner shall handle all records related to the complaint and investigation in accordance with 7(f) of this policy. If there is a finding of a contravention, such records may be accessed by the Integrity Commissioner in the event of future complaints concerning the same Member.

At the time of the Integrity Commissioner's report to Council, the identity of the person who is the subject of the complaint shall not be treated as confidential information if the Integrity Commissioner finds that a contravention has occurred.

Notwithstanding the foregoing, where the subject matter of nature of any allegation or complaint or any report concerning same is such that it is properly dealt with in closed session in accordance with the provisions of the *Municipal Act, 2001*, the complaint, motion or report shall be dealt with in closed session to the extent permitted by the *Municipal Act, 2001*.

Subject to the foregoing, all reports from the Integrity Commissioner to Council in respect of which a finding of a contravention has been made will be made available to the public upon request with such redactions as may be necessary to protect

privacy and personal information pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*.

**APPENDIX II**

**CODE OF CONDUCT COMPLAINT FORM/AFFIDAVIT**

I, \_\_\_\_\_, of the \_\_\_\_\_  
*(full name)* *(city, town, etc.)*

in the Province of Ontario, **MAKE OATH AND SAY:**

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

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

*(insert reasons, i.e. I work for ... I attended a meeting at which, etc.)*

2. I have reasonable and probable grounds to believe that a Member of the Municipality of Strathroy-Caradoc Council, namely

\_\_\_\_\_ has contravened section(s) \_\_\_\_\_  
*(specify name of Member)* *(specify section(s))*

of the Code of Conduct for Members of Council. The particulars of the contravention are as follows:

*(Set out the statements of fact in consecutively numbered paragraphs in the space provided, with each paragraph confined as far as possible to a particular statement of fact. If more space is required, please use the 'Additional Information' page attached hereto). 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.)*

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

\_\_\_\_\_  
*Initials of Attester and Commissioner*

SWORN before me at the \_\_\_\_\_ )  
of \_\_\_\_\_, in the Province )  
of Ontario, this \_\_\_\_\_ day of \_\_\_\_\_, )  
20\_\_\_\_. )

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*A Commissioner for taking affidavits, etc.*

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

**ADDITIONAL INFORMATION**

**To the affidavit required under the Code of Conduct for Members of Council**

If more than one page is required, please photocopy this blank page and mark each additional page as "2 of 2", "2 of 3", etc. at the top right corner.

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SWORN before me at the \_\_\_\_\_ )  
of \_\_\_\_\_, in the Province )  
of Ontario, this \_\_\_\_\_ day of \_\_\_\_\_, )  
20\_\_\_\_. )

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*A Commissioner for taking affidavits, etc.*