



The Municipal Corporation of the Town of Fort Erie

By-law 172-2023

Being a By-law to Revise Council Code of Conduct and Repeal By-law 43-2015

Whereas the Municipal Act, 2001, as amended, subsection 223.2(1) authorizes municipalities to establish codes of conduct for Members of council and local boards; and

Whereas By-law No. 43-2015 adopted a Council Code of Conduct; and

Whereas at its meeting held December 11, 2023, Council-in-Committee considered Report LLS-02-2023 and recommended that By-law No.43-2015 be repealed and that the Code of Conduct attached as Schedule A to and forming part of this by-law be forwarded to Council for adoption.

Now therefore the Council of the Town of Fort Erie enacts as follows:

1. **That** the Council Code of Conduct attached as Schedule A to and forming part of this by-law is approved and adopted.
2. **That** By-law 43-2015 is hereby repealed.
3. **That** the Clerk of the Town is authorized to affect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 18th day of December 2023.

Mayor

Clerk

1. Application

- 1.1. This Code of Conduct is established in accordance with section 223.2 of the *Municipal Act, 2001* and applies to all Members of Council and local boards (hereinafter referred to as “Members” or “Members of Council”).
- 1.2. Advisory Committees appointed by Council are largely comprised of citizen volunteers from the Town of Fort Erie who lend expertise, advice and make recommendations. The provisions outlined herein shall not apply to Advisory Committees that are not local boards. It is however important to provide for Standards of Conduct. Accordingly, the conduct of Advisory Committee Members shall be governed by the provisions of the Advisory Committee Standards of Conduct annexed hereto as Appendix “A”.

2. Purpose

- 2.1. To maintain and enhance public confidence and trust in the integrity of Members as well as the respect and confidence that society places in the institution of local government.
- 2.2. To demonstrate to the public that Members are held to standards that place the public interest ahead of their private interests and to provide a transparent system by which the public may judge this to be the case.
- 2.3. To provide for greater certainty and guidance for Members in how to reconcile their private interests with their public duties and functions.
- 2.4. To foster consensus among Members by establishing common standards and by providing the means by which questions relating to proper conduct may be answered by an independent, non-partisan advisor.

3. Framework and Interpretation

- 3.1. The Code of Conduct is to be given interpretation in accordance with applicable legislation and the definitions set out herein. As a living document, the Code of Conduct will be brought forward for review when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council and local boards.
- 3.2. As long as all the facts known to the Member are disclosed to the Integrity Commissioner and there is no change to these facts, then the Member may rely on any written advice provided by the Integrity Commissioner.
- 3.3. Members of Council seeking clarification of any part of this Code may consult with the Integrity Commissioner.

4. Key Principles

- 4.1. Members of Council shall be committed to performing their functions with accountability and transparency.
- 4.2. Members of Council shall recognize the public has a right to open government and transparent decision-making.
- 4.3. Members of Council shall at all times serve and be seen to serve the interests of their constituents and the Town in a conscientious and diligent manner and shall approach decision-making with an open mind.
- 4.4. Members of Council shall be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real.
- 4.5. Members of Council shall not extend in the discharge of their official duties preferential treatment to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was for the purpose of advancing a private or personal interest.
- 4.6. For greater clarity, this Code does not prohibit Members of Council from properly using their influence on behalf of constituents.
- 4.7. Members of Council 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.
- 4.8. Members of Council shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the by-laws and policies adopted by Municipal Council.

5. Statutory References

- 5.1. The Code of Conduct operates together with and as a supplement to the existing statutes as amended from time to time, governing the conduct of Members of Council, as follows:
 - (a) *Municipal Act, 2001*, S.O. 2001, c.25;
 - (b) *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50; "MCIA"
 - (c) *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56; "MFIPPA"
 - (d) *Municipal Elections Act, 1996*, S.O. 1996, c.32; and
 - (e) *Ontario Human Rights Code*, R.S.O. 1990, c.H.19, as amended.

- 5.2. The Rules of Procedure, as amended, address the conduct of Members during a Council meeting.
- 5.3. The Criminal Code of Canada also governs the conduct of Members.
- 5.4. Other by-laws and policies of the Town of Fort Erie governing the conduct of Members.

6. Definitions

- 6.1. For the purposes of this Code of Conduct:

- (a) **“benefit”** means anything (other than a gift) given that confers an advantage, including but not limited to discounted or free services, food or beverages for immediate consumption, activities or event tickets, unless payment in any form, including the exchange of goods or services, of equal or greater value is received by the individual or entity giving the benefit;
- (b) **“child”** means a child born within or outside a marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his/her family or as defined under the current *Municipal Conflict of Interest Act, 1990* as amended from time to time;
- (c) **“Clerk”** means the Clerk of The Corporation of the Town of Fort Erie;
- (d) **“Code”** means this Code of Conduct as it applies to Members of Council and local boards;
- (e) **“complaint”** means a written allegation of a purported contravention of this Code;
- (f) **“confidential information”** means information or records that are in the possession, in the custody or under the control of the Town and/or its Local Board(s) that the Town is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act, 1990* or other legislation.

This includes any information in the possession of, or received in confidence by the Town that the Town is prohibited from disclosing, or has decided to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act, 1990*, or any other law.

“Confidential information” also includes:

- i. information of a corporate, commercial, scientific or technical nature received in confidence from third parties;
- ii. confidential personal information about an identifiable individual under MFIPPA;

- iii. information that is subject to solicitor-client privilege;
 - iv. information that concerns any confidential matters pertaining to personnel, labour relations, litigation, property acquisition/disposal, the security of the property of the municipality or a local board;
 - v. any other information lawfully determined by Council to be confidential, or required to remain or be kept confidential by legislation or order;
 - vi. information disclosed or discussed at a Closed Session meeting of Council;
 - vii. information that is circulated to Members of Council and marked “Confidential”;
 - viii. 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: Personal matters about an identifiable individual(s); Information about suppliers provided for evaluation which might be useful to other suppliers; matters relating to legal affairs of the Town; sources of complaints where the identity of the complainant is given in confidence; items under negotiations; and matters identified as solicitor-client privilege.
- (g) **“conflict of interest”** means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular matter.
- (e) **“Corporation”** means The Corporation of the Town of Fort Erie;
- (h) **“Council”** means the Municipal Council of the Town of Fort Erie. For the purposes of this Code the term “Council” shall also mean and include “local boards”;
- (i) **“employee”** means a person employed by the Town or local board, including those employed on a personal services contract, and volunteers, but does not include Members;
- (j) **“frivolous”** means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense;
- (k) **“gift”** means any real or personal property given, including but not limited to art work, clothing, money, gift certificates or gift cards, unless payment in any form, including the exchange of goods or services, of equal or greater value is received by the individual or entity giving the gift;
- (l) **“hospitality”** means instances where there is entertainment of or by outside parties for the furtherance of municipal business;
- (m) **“Integrity Commissioner”** means the Integrity Commissioner appointed by Council pursuant to the *Municipal Act, 2001*, as amended from time to time;
- (n) **“information”** includes a record or document;

- (o) **“local board”** as defined in the *Municipal Act, 2001*, as amended and *Municipal Conflict of Interest Act, 1990* as amended, and shall include the following boards and any other local boards established by Council after the effective date of the Code of Conduct;
 - i. Bridgeburg Station Downtown Business Improvement Area Board of Management;
 - ii. Crystal Beach Business Improvement Area Board of Management;
 - iii. Ridgeway Business Improvement Area Board of Management;
 - iv. Property Standards Committee;
 - v. Committee of Adjustment;
 - vi. Compliance Audit Committee.
- (p) **“Member”** means a Member of Council or local board;
- (q) **“non-pecuniary interest”** means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (r) **“Official duties”** means the public duties of a Member and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the Town or local board’s jurisdiction, and which are done for the purpose of providing good government with respect to those matters;
- (s) **“parent”** means a person who has demonstrated a settled intention to treat a child as a Member of his/her family whether or not that person is the natural parent of the child or as defined under the current *Municipal Conflict of Interest Act, 1990* as amended from time to time;
- (t) **“personal benefit”** means forms of advantage other than financial such as seeking an appointment, promotion or transfer within the Corporation on behalf of a family Member and includes the private interests of a Member;
- (u) **“private interest”** means all of the activities of a Member not included in the term defined as “Official duties”;
- (v) **“spouse”** means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage or as defined in the MCIA, as amended from time to time;
- (w) **“Town”** means The Corporation of the Town of Fort Erie;
- (x) **“Town property”** means items, services or resources which are the property of the Town including but not limited to: materials, equipment, vehicles, facilities, technology, Town-developed computer programs or technological innovations, databases, intellectual property, Town-owned images, logos, crest and supplies;

- (y) **“vexatious”** means something that is instituted without sufficient grounds and serving only to cause annoyance, frustration or worry.

7. General Obligations

7.1. In carrying out their duties, Members shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council, Local Board or any committee and in accordance with the Town’s Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) respect the individual rights, values, beliefs and personality traits of any other person and refrain from imposing their own personal moral and religious beliefs on others;
- (e) refrain from making statements known to be false or with the intent to mislead Council, other Members or the public;
- (f) accurately communicate the decisions of Council and its Local Board(s) and respect the decision-making process even if they disagree with the ultimate determinations and rulings; and
- (g) refrain from making disparaging comments about another Member or unfounded and speculative accusations about the motives of another Member.

8. Respect for Decision-making Process

- 8.1. Members shall accurately and adequately communicate the decisions of Council and local boards such that respect for the decision and decision-making process is fostered.
- 8.2. Members shall not attempt to influence the decision-making process as it relates to the award of contracts or settlement claims through personal contact or interaction with the parties administering or directly involved in such processes.
- 8.3. Employees are responsible for providing professional advice, are bound by the decisions of the Council or local board respectively, and shall not be requested to take any action contrary to such decisions.

9. Release of Information to Public and Media

- 9.1. Members acknowledge that decisions and resolutions made by Council or the local board will normally be formally announced to the community and the media on behalf of Council or the local board as a whole, by the Mayor or local board

Chair, or by his/her designate, or through media releases issued by the Town or the local board.

10. Adherence to Council Policies and Procedures

- 10.1. Every Member shall observe and comply with every provision of this Code of Conduct, as well as all other policies and procedures adopted or established by Council affecting the Member acting in his/her capacity as a Member of Council.

11. Conduct at Meetings

- 11.1. Every Member shall conduct himself/herself properly and in a civil manner at Council, committee and other meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.

12. Conduct Respecting Others

- 12.1. Every Member shall treat every person with dignity, respect and understanding.
- 12.2. Every Member has the duty and responsibility to treat Members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.
- 12.3. A Member shall not use indecent, abusive or insulting words or expressions toward any other Member, any Member of staff or any Member of the public.
- 12.4. 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.
- 12.5. Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategic priorities through the work of its employees.
- 12.6. 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 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 the staff of the Town.
- 12.7. 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. Nor shall any Member 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 with that person's duties, including the duty to disclose improper activity.

13. Gifts and Benefits including Hospitality

- 13.1. For the purposes of this Code, a gift or benefit provided, with the Member's knowledge, to a Member's spouse, child or parent that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift or benefit to that Member.
- 13.2. No Member shall accept a fee, advance, gift or personal benefit (including hospitality) that is connected directly or indirectly with the performance of his/her duties of office, unless permitted under one or more of the exceptions listed below.
- 13.3. Each of the following is recognized as an exception:
 - (a) Compensation authorized by by-law;
 - (b) A gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
 - (c) A political contribution otherwise authorized and reported as required by law, in the case of a Member running for office;
 - (d) Services provided without compensation by a person volunteering his/her time;
 - (e) A suitable memento of a function honouring the Member;
 - (f) Food, lodging, transportation or entertainment lawfully provided by any Provincial, Regional or local government or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or event where the Member is speaking or attending in an official capacity;
 - (g) Food and beverages consumed at a banquet, reception or similar event, if:
 - (i) Attendance by the Member is for a legitimate municipal purpose;
 - (ii) The person extending the invitation, or a representative of the organization holding the event, is in attendance; and
 - (iii) The value is reasonable;
 - (h) Communications to the office of a Member, including subscriptions to newspapers and periodicals;
 - (i) A sponsorship or donation for a community event organized or run by a Member, or a third party on behalf of a Member, subject to the limitations set out in any applicable municipal policy;

- 13.4. In the case of any of the recognized exceptions under Section 13.3(a)-(i) herein, if the value of the gift or benefit exceeds \$300.00, or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$300.00, the Member shall file, within 30 days of receipt of the gift or benefit, or of reaching the annual limit, a disclosure statement in the prescribed form with the Clerk.
- 13.5. The disclosure statement must set out:
- (a) The nature of every gift or benefit received;
 - (b) Its source and date of receipt;
 - (c) The circumstances under which it was given and received;
 - (d) Its estimated value;
 - (e) What the recipient intends to do with any gift; and
 - (f) Whether any gift will at some point be provided to the municipality.
- 13.6. Every disclosure statement filed under this Code shall be a public record and available in the Office of the Clerk.
- 13.7. Upon receiving a formal written complaint, not deemed to be frivolous or vexatious, that a gift or benefit was received contrary to the conditions set out herein, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in his/her opinion, constitute a contravention of this Code or create a conflict between a private interest and the public duty or responsibilities of the Member. In the event that the Integrity Commissioner makes such a determination, he/she shall call upon the Member to justify receipt of the gift or benefit.
- 13.8. Should the Integrity Commissioner determine that receipt of any gift or benefit was inappropriate, he/she may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit the value of any gift or benefit already consumed to the municipality.
- 14. Confidential Information**
- 14.1. No Member shall disclose, release or publish by any means to any person or to the public any confidential information acquired by virtue of his/her office, in any form, except when required or authorized by Council or otherwise by law to do so.
- 14.2. No Member shall use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body.
- 14.3. Members of Council have an obligation to hold in the strictest confidence any and all information concerning matters dealt with at closed meetings. Members of

Council shall not, either directly or indirectly, release, make public, or in any way divulge any such information in respect of a closed meeting deliberation to anyone, unless expressly authorized by Council or as required by law to do so.

- 14.4. A Member may disclose the content of any matter referred to in the preceding paragraph or the subject matter of deliberations at a closed meeting, only after the Council or committee lawfully and knowingly discusses the information at a meeting that is open to the public or releases the information to the public.
- 14.5. For the purposes of interpreting the above, examples of confidential information include, but are not limited, to the following:
- (a) Information concerning litigation, negotiations or personnel matters;
 - (b) Information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence);
 - (c) Price schedules in any contract, tender or proposal document while such remains a confidential document;
 - (d) Information deemed to be “personal information” under the *Municipal Freedom of Information and Protection of Privacy Act, 1990*;
 - (e) Any other information or statistical data required by law not to be released.
- 14.6. No Member of Council shall obtain access, or attempt to gain access, to confidential information in the custody of the municipality except to the extent that such access is necessary for the performance of his/her duties and such access is not prohibited by Council policy.
- 14.7. Members shall not release information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.
- 14.8. Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council resolution, or required by law to do so.

15. Use of Town Property, Services and Resources

- 15.1. No Member of Council shall use, or permit the use of Town property, including land, facilities, equipment, supplies, services, employees or other resources (for example, Town-owned materials, computers, networks, websites, corporate transportation) for activities other than the business of the Corporation. Nor should any Member obtain personal benefit or financial gain from the use or sale of Town property, including Town-developed intellectual property (for example, inventions, creative writings, computer programs and drawings), technical innovations, Town-owned images, logos, crest, or other items capable of being patented, since all such property remains exclusively that of the Town.

- 15.2. Members shall conduct themselves in accordance with the provisions of information technology policies of the Town. The Town licences the use of computer software from a variety of vendors. The Town does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable licence. This policy applies to the use of blackberries, personal computers, fax machines, printers, etc.
- 15.3. Members shall conduct themselves in accordance with the Town of Fort Erie's Use of Corporate Resources for Election Purposes Policy.

16. Election Campaign

- 16.1. Members are required to follow the provisions of the *Municipal Elections Act, 1996* and Council's Policy with respect to the Use of Corporate Resources for Election Purposes.
- 16.2. No Member shall use the facilities, equipment, supplies, services or other resources of the Town (including Councillor newsletters and Councillor websites linked through the Town's website) for any election campaign or campaign-related activities.
- 16.3. No Member shall undertake campaign-related activities on Town property.
- 16.4. No Member shall use the services of persons during hours in which those persons receive any compensation from the Town.

17. Municipal Conflict of Interest

- 17.1. Members shall avoid conflicts of interest, both pecuniary and non-pecuniary. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Town and its elected officials. Members are encouraged to seek guidance from the Integrity Commissioner or legal advice when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary. Members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act, 1990* as amended from time to time.

18. Improper Use and Influence

- 18.1. No Member shall use the influence of his/her office for any purpose other than for the lawful exercise of his/her official duties and for municipal purposes.
- 18.2. No Member shall use his/her office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage or that of the Member's parent, child, spouse, staff Member, friend or associate, business or otherwise. No Member shall attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as

part of their official duties. No Member shall hold out the prospect or promise of future advantage through the Member's supposed influence within Council, in return for any action or inaction.

18.3. For the purposes of this provision, "private advantage" does not include a matter:

- (a) That is of general application;
- (b) That affects a Member, his/her parents/children or spouse, staff Members, friends or associates, business or otherwise, as one of a broad class of persons; or
- (c) That concerns the remuneration or benefits of a Member.

18.4. This provision does not prevent a Member from requesting that Council grant a lawful exemption from a policy.

19. Business Relations

19.1. No Member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Town except in compliance with the terms of the *Municipal Conflict of Interest Act, 1990* as amended.

19.2. A Member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

20. Integrity Commissioner

20.1. The Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code and otherwise discharge the duties and functions an Integrity Commissioner is authorized to undertake in accordance with the *Municipal Act, 2001* and *Municipal Conflict of Interest Act, 1990* which duties and functions have been and are hereby assigned to the Town's Integrity Commissioner.

21. Complaint - General

21.1. Any individual, including Members of the public, Town 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.

21.2. Complaints must be submitted within six (6) weeks of the matter becoming known (or reasonably ought to have been known) to the individual and, in any event, no more than six (6) months after the alleged violation occurring. No action shall be taken on a complaint received beyond these deadlines.

21.3. A complainant does not have to pursue the informal complaint process set out in Section 22.1 prior to proceeding with the formal complaint process set out in Section 22.2 herein.

22. Complaint Protocol

22.1. Informal Complaint Procedure

- a) Any individual who has identified or witnessed behavior or activity by a Member that appears to be in contravention of the Code may address their concerns in the following manner:
 - i. Advise the Member that their behaviour or activity contravenes the Code;
 - ii. Encourage the Member to stop the prohibited behavior or activity;
 - iii. If applicable, confirm to the Member your satisfaction or dissatisfaction with his/her response to the concern identified;
 - iv. 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.
- b) 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 22.2.

22.2. Formal Complaint Procedure

- a) Any individual who has identified or witnessed behavior 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.
 - i. All formal complaints must be made using the Town's Complaint Form/Affidavit prepared by the Clerk (substantially in the form of Appendix "B") and shall be dated, signed and sworn by the complainant;
 - ii. 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 complaint;
 - iii. Any witnesses in support of the allegation must be identified on the complaint;
 - iv. The complaint 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;
 - v. The complaint shall be filed with the Clerk who shall confirm the information is complete as to (i), (ii), (iii) and (iv) of this section. The Clerk shall forward the complaint to the Integrity Commissioner who shall determine 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;

- vi. The complainant shall maintain the confidentiality of the complaint until such time as the investigation report of the Integrity Commissioner has been made public or as otherwise determined by the Integrity Commissioner.
- vii. The Integrity Commissioner may request additional information from the complainant.

22.3. Refundable Complaint Application Fee

- a) A refundable application fee shall apply for formal complaints, as follows:
 - i. Upon the filing of a complaint under Section 22, a complainant shall pay to the Clerk a refundable fee in the amount established in the Town's Consolidated User Fees By-law, as amended or superseded from time to time;
 - ii. The fee payable under subsection 22.3 I (i) shall be refunded to the complainant when the Integrity Commissioner files their report under Section 26, except as may otherwise be required herein;
 - iii. Where a complaint is found to be frivolous, vexatious, without sufficient grounds or not made in good faith under Section 24, the fee shall not be refunded;

23. Non-Compliance

23.1. 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 may instruct the Clerk to 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*, 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, 1990* the complainant may be referred to the Clerk to have the matter reviewed under that *Act*;
- (c) **Discrimination or Harassment** – if the complaint is an allegation of discrimination or harassment, the complainant may be advised to file a complaint directly with the Human Resources Manager under Town of Fort Erie Health and Safety Policy, as amended from time to time. The complainant may also be advised of his/her right to advance an application to the Ontario Human Rights Tribunal;

- (d) **Municipal Elections** – if the complaint is more appropriately addressed under the *Municipal Elections Act, 1996* the complainant may be referred to the Clerk to have the matter reviewed under that *Act*;
- (e) If the matter is covered by other policies with a complaint procedure or legislation, the complainant may be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner;
- (f) In all 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.

24. Refusal to Investigate

- 24.1. If the Integrity Commissioner is of the opinion that the referral of a matter 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 an investigation, or, where it becomes apparent in the course of an investigation, shall terminate the investigation.
- 24.2. The Integrity Commissioner shall not report to Council on any complaint described in Subsections 22.1 and 22.2 herein except as part of an annual or other periodic report or unless the Integrity Commissioner should determine it is in the public interest to do so.
- 24.3. The Integrity Commissioner shall inform the Clerk and the parties to the complaint when an investigation is terminated or not advanced for reasons cited above.

25. Opportunity for Resolution

- 25.1. 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.

26. Investigation

- 26.1. If the Integrity Commissioner determines that a formal investigation is required he/she shall proceed in the following manner, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under Sections 33 and 34 of the *Public Inquiries Act*.
- 26.2. 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 ten (10) days.

- 26.3. 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 ten (10) days.
- 26.4. 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 Town work location relevant to the complaint for the purpose of investigation and potential resolution.
- 26.5. 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.
- 26.6. At any time, the complainant may abandon the request for an investigation and the Integrity Commissioner shall cease his/her investigation.

27. Final Report and Recommendations

- 27.1. The Integrity Commissioner shall report to the complainant and the Member on the results of his/her review, generally within ninety (90) days of the date of the completion of the investigation.
- 27.2. If during the investigation process, the complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, the public terms of any resolution and any recommended action, generally within thirty (30) days.
- 27.3. If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report his/her findings to Council including a recommendation as to the imposition of a penalty or sanction as set out Section 29 herein.
- 27.4. 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.

28. Duty of Council

- 28.1. The Council shall receive the report of the Integrity Commissioner within thirty (30) days of it being received by the Clerk and it shall be included on the next Regular Council Meeting Agenda.
- 28.2. 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 into the Member's conduct.

29. Penalties and Sanctions

29.1. Where the Integrity Commissioner determines that a Member has contravened any provision of this Code, he/she is authorized to provide recommendations to Council to impose upon the offending Member:

- (a) A reprimand;
- (b) Suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to ninety (90) days.

29.2. Council may also decide to take one or more of the following actions against a Member of Council or of a local board:

- (a) Removal from Membership on a committee or local board;
- (b) Removal as chair of a committee or local board;
- (c) Repayment or reimbursement of monies received;
- (d) Return of property or reimbursement of its value.

30. Office of Integrity Commissioner Vacant

30.1. Should the office of Integrity Commissioner become vacant, the Code of Conduct remains in effect and all Members shall abide by the provisions set out herein. When a vacancy occurs, all formal complaints shall be held in abeyance until such time as a new Integrity Commissioner has been appointed; or an interim measure enacted to enable the complaint to be addressed within a reasonable amount of time. For example, the Town could engage the services of an Integrity Commissioner from another local municipality as a potential interim measure.

31. No Complaints or Reports Prior to Election

31.1. No complaint may be referred to the Integrity Commissioner or forwarded by the Clerk for review and/or investigation between Nomination Day in the year of the regular election and Voting Day as provided in the *Municipal Elections Act, 1996*, as amended.

31.2. Notwithstanding Section 26 or 27 of the Code, the Integrity Commissioner shall not make any report to Council or any other person after the last Council meeting prior to Nomination Day in any year in which a regular municipal election is to be held. Any reports would proceed to the first Council meeting held after the inaugural meeting of the new Council.

31.3. If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election, the Integrity Commissioner shall terminate the inquiry on that day, and the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, the

person or entity who made the request or the Member or former Member whose conduct is concerned makes a written request to the Commissioner that the inquiry be commenced

32. Confidentiality of Complaint Documents

- 32.1. The Integrity Commissioner and every person acting under his/her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the Town 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, 2001*.
- 32.2. Pursuant to Section 223.5(3) of the *Municipal Act, 2001*, this section prevails over the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.
- 32.3. If the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that in the Integrity Commissioner's opinion is required for the purposes of the report, including the name of the complainant and the Member.
- 32.4. If the Integrity Commissioner issues an annual or other periodic report to Council on his/her activities, the Integrity Commissioner shall summarize the advice he/she has given but shall not disclose confidential information that could identify a person concerned.

33. Other Duties of Integrity Commissioner

- 33.1. Without limiting the authority of the Integrity Commissioner under Section 20.1 of the Code, in addition to conducting investigations regarding alleged breaches of the Code, the Integrity Commissioner shall generally have the following responsibilities:
 - (a) Provide information to Council as to their obligations under the Code;
 - (b) Provide advice to individual Members regarding specific situations as they relate to the application of the Code;
 - (c) Provide advice to Council on other policies and procedures that relate to the ethical behavior of Members;
 - (d) Provide general advice on conflict of interest issues under the *Municipal Conflict of Interest Act, 1990* which shall not explicitly constitute a legal opinion and noting that this advice may not be used in defence of allegations related to conflict of interest;
 - (e) Provide an annual report to Council on the activities of the Integrity Commissioner.

34. Request for Advice

- (a) Where a Member is seeking to obtain advice from the Integrity Commissioner, the Member shall submit to the Clerk a Request for Advice from Integrity Commissioner Form (substantially in the form of Appendix "C" annexed hereto), who shall review it for completeness and submit it to the Integrity Commissioner for response.
- (b) The Integrity Commissioner shall provide his/her advice in writing to the Member, which shall not constitute legal advice.
- (c) 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.
- (d) Any written requests for advice and responses to such requests are covered under the *Municipal Freedom of Information and Protection of Privacy Act, 1990*.

35. Annual Report to Council

- 35.1. In completing its annual report to Council, the Integrity Commissioner shall include information on the nature and volume of activity for the past year and anonymized in respect of advice provided and the nature of complaints received and responded to.
- 35.2. The Integrity Commissioner shall file his/her annual report to the Clerk. It shall then become a public document.
- 35.3. The Clerk shall receive the annual report of the Integrity Commissioner and include it on the next Regular Council agenda.

36. Reprisal or Obstruction

- 36.1. 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.
- 36.2. Examples of the types of obstruction prohibited under Section 36.1 herein include but are not limited to:
 - (a) destroying documents including erasing electronic documents;
 - (b) withholding or concealing documents including electronic documents;

- (c) failing to respond to the Integrity Commissioner within 10 days after a written request is given or within such longer period as the Integrity Commissioner may allow.

37. Inconsistency and Clarification

- 37.1. In the case of any inconsistency between this Code and a Federal or Provincial statute or regulation, the statute or regulation shall prevail.
- 37.2. Members seeking clarification on any part of this Code of Conduct may consult with the Clerk or Integrity Commissioner.

Appendix “A” to Council Code of Conduct

Advisory Committee Standards of Conduct

The purpose of an advisory committee is to provide informed advice and guidance to Council on programs and policies.

Advisory Committees are expected to provide impartial and objective advice to Council. In so doing, these individuals shall assess, consider various options, and make recommendations to Council in a conscientious and ethical manner.

In recognition of the advisory role and lack of decision-making powers, the Council Code of Conduct shall not apply to Advisory Committees but shall serve as a guide in matters of accountability and transparency. However, it is deemed desirable to establish the following general accountability, transparency and ethical standards of conduct for Members of Advisory Committees of the Town of Fort Erie to ensure they are acting in a manner that is appropriate.

1. Advisory Committee Members shall, when conducting committee business, preparing written correspondence, interacting with the media, Members of Council, staff or Members of the public, act in a manner that accomplishes the following:
 - (a) Fulfills the mandate and mission statement of his/her advisory committee;
 - (b) Respects due process and the authority of the Chair, Vice-Chair or presiding Officer;
 - (c) Demonstrates respect for all fellow committee Members, Council, staff and the public;
 - (d) Demonstrates respect for the decisions of Council;
 - (e) Respects and gives fair consideration to diverse and opposing viewpoints;
 - (f) Demonstrates due diligence in preparing for meetings, special occasions, or other committee-related events;
 - (g) Demonstrates professionalism, transparency, accountability and timeliness in completing any tasks or projects undertaken by the committee;
 - (h) Conforms with all relevant legislation, by-laws, policies and guidelines, including the ABC Handbook; and
 - (i) Contributes in a meaningful manner, offering constructive comments to Council, staff and fellow committee Members.

Appendix “A” to Council Code of Conduct**Page Two**

2. A Member of an Advisory Committee shall not:
 - (a) Place themselves in a position where the Member is under obligation to any person who might benefit from special consideration or favour on their part or who might seek in any way preferential treatment;
 - (b) Accord, in the performance of his/her official duties, preferential treatment to relatives or to organizations in which the Member, his/her relatives have an interest, financial or otherwise;
 - (c) Deal with an application to the Town for a grant, award, contract, permit or other benefit involving the Member or his/her immediate relative;
 - (d) Place themselves in a position where the Member could derive any direct benefit or interest from any matter about which they can influence decisions; and
 - (e) Benefit from the use of information acquired during the course of his/her official duties which is not generally available to the public.
3. A Member of an Advisory Committee shall disclose to the committee at the outset of a meeting, that the Member could be involved in either a real or apparent conflict of interest (pecuniary interest) as prohibited by the Code; and where appropriate, shall abide by any decision made by the committee, with respect to such conflict of interest without recourse.
4. Where an Advisory Committee Member believes or has been advised by the committee that they have a conflict of interest in a particular matter, he/she shall:
 - (a) Prior to any consideration of the matter, disclose his/her interest and the general nature thereof;
 - (b) Leave the room for the duration of time that the matter is being considered;
 - (c) Not take part in the discussion of, or vote on any question or recommendation in respect of the matter; and
 - (d) Not attempt in any way whether before, during or after the meeting to influence the voting on any such question or recommendation.
5. Where the number of Members who, by reason of conflict, are incapable of participating in a meeting such that the remaining Members no longer constitute a quorum, as set out in Section 7.12 of the *ABC Handbook* for boards and committees, then the remaining Members shall be deemed to constitute a quorum provided there are not less than two (2) Members present.

Appendix “A” to Council Code of Conduct

Page Three

6. Notwithstanding Section 2(c), Members of the Museum and Cultural Heritage Advisory Committee who own property designated under Part IV or Part V of the *Ontario Heritage Act* and are seeking consideration of a Heritage Permit Application (HPA) for said property are permitted to address the committee regarding their HPA but, are prohibited from taking part in the committee's deliberation and/or voting regarding the matter.
7. Should a Member of an Advisory Committee, save and except a Member of Council, breach any of the clauses set out herein, the Clerk may refer the matter to Council who will consider whether to take any of the possible corrective actions, as outlined under Part 29 Subsection 2 of the Council Code of Conduct for Members of Council, local boards and advisory committees

Council Code of Conduct - Complaint and Affidavit

Appendix "B" to Council Code of Conduct

Full Name of Complainant			
Street Address			
City/Town		Postal Code	
Primary Phone Number			
Email address			
<div style="border-bottom: 1px solid black; width: 100%;"></div>		<div style="border-bottom: 1px solid black; width: 100%;"></div>	
Date of Complaint		Signature	
For Internal Use			
Date Complaint Received			
Received by		Checked by	
Date forwarded to Integrity Commissioner			
Date report received			
Date report submitted to Council			
<p><i>Personal information is collected under the authority of the Municipal Act, 2001 S.O. 2001. The disclosure of this information is governed by the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56 . A copy of this form and affidavit will be provided to the subject Member of Council or local board Member. Personal information and the particulars of the complaint will be held in confidence and it will subsequently form part of the Integrity Commissioner's Report. The Integrity Commissioner's Report is a matter of public record. Enquiries may be directed to the Town Clerk at 905-871-1600</i></p>			

Council Code of Conduct - Complaint and Affidavit

Affidavit

Affidavit of _____

I, _____

of the Town/City of _____ in the Province of Ontario

make Oath and Say;

1. I have personal knowledge of the facts as set out in the Affidavit because (explain)
2. I have reasonable and probably grounds to believe that _____, a Member of Council of the Town of Fort Erie has contravened section(s) _____ of the Council Code of Conduct. The details are set out below.
(Set out the statements of fact in consecutively numbered paragraphs. Attach additional pages if necessary and check the box below. If you have other documents to support this affidavit, mark them as "Exhibit A", "Exhibit B", etc.)

☐ Additional Comments Attached

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

Sworn before me at _____)

in the _____)

this _____ day of)

_____, 20____)

_____))

_____))

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_____))

Signature of Complainant

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**, R.S.C. 1985, c.C-46, 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 (14) years (Sections 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.

Appendix "C" to Council Code of Conduct

Request for Advice of Integrity Commissioner

Request for Advice of Integrity Commissioner	
Name of Member of Council	
Primary Phone Number	
Email address	
Advice requested (attached additional pages if necessary)	
<input type="checkbox"/> Additional Comments Attached	
Date	Signature
<div>For Internal Use</div> <div> <div>Date Request Received</div> <div> <div>Received by</div> <div>Checked by</div> </div> <div>Date forwarded to Integrity Commissioner</div> <div>Date of Commissioner's Reply</div> </div>	