



Code of Conduct

Council, Local Board and Committee Members

**Council and Clerk Services
Implemented: March , 2017**

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

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Township of Wellesley
Code of Conduct for Council, Local Board and Committee Members

1 PREAMBLE

Attaining an elected position within one's community is a privilege which carries significant responsibilities and obligations. Members of Council (comprising the Mayor and Councillors) are held to a high standard as leaders of the community and they are expected to become well informed on all aspects of municipal governance, administration, planning and operations. They are also expected to carry out their duties in a fair, impartial, transparent and professional manner.

A Code of Conduct reinforces relevant legislation within which all Members of Council, Local Boards and Advisory Committees must operate. The Code of Conduct serves to enhance public trust and improve the quality of public administration and governance by encouraging high standards of conduct on the part of all government officials, ensuring that those Members share a common standard of integrity through adherence to its principles.

The Code of Conduct is intended to supplement and be compatible with the laws governing the conduct of Members. The key principles include:

- Members to whom this Code of Conduct applies shall serve in a conscientious and diligent manner;
- Members shall be committed to performing their functions with integrity without using the influence of their office;
- Members shall avoid all conflicts of interest;
- Members are expected to perform their duties of office and to arrange their private affairs in a manner that promotes public confidence and will bear close legal and public scrutiny;
- Members are responsible for making honest statements and shall not make any statement when they know that statement is false, or with the intent to mislead other Members or the public; and,
- Members shall serve the public interest by upholding the laws and policies established by the Federal Parliament, Ontario Legislature, and the laws and policies adopted by the Township.

This Code of Conduct is intended to provide a guideline for elected officials in exercising their policy-making role having regard to the statements and ideals as enunciated hereunder.

2 DEFINITIONS

In the Code of Conduct, the terms "child", "parent" and "spouse" have the same meanings as in the *Municipal Conflict of Interest Act*. For the purpose of this Code:

"Advisory Committee" means a committee established by Council to advise on matters which Council has deemed appropriate for the committee to provide recommendations for Council's review, including any ad hoc, subcommittee or task force.

"Code of Conduct" means the "Township of Wellesley Code of Conduct for Members of Council, Local Boards and Advisory Committees".

"Complainant" means a person who has filed a complaint under the Code of Conduct.

"Complaint" means a purported contravention of the Code of Conduct.

"Committee Member" means a citizen and/or staff appointed by Council to Committees of Council.

"Council" means the council of the Township of Wellesley;

"Frivolous" means being of little or no weight, worth, or importance; not worthy of serious notice.

"Good Faith" means in accordance with standards of honesty, trust, sincerity.

"Integrity Commissioner" shall mean the Integrity Commissioner appointed by the Council of the Township of Wellesley to provide independent and consistent complaint investigation and resolution respecting the application of the Code of Conduct.

"immediate relative" shall mean a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, daughter-in-law, son-in-law, father-in-law, mother-in-law as well as step-relationships and half-relationships; spouse shall mean the person to whom a person is married or with whom the person is living in a conjugal relationship outside of marriage; this definition shall also include any other person(s) that are living with the employee on a full-time basis whom the member/employee (appropriate to the document) has demonstrated a settled intention to treat as an immediate relative.

"Local Board" means a local board as defined in Section 223.1 of the Municipal Act, 2001.

"Private Advantage" does not include, for the purposes of the Code of Conduct, a matter:

ba) That is of general application or considered to be an interest in common generally with the electors within the jurisdiction of an area; or

bb) That concerns the remuneration or benefits of a member of Council.

"Member of Council" or **"Member"** means any person duly elected or appointed to serve on the Council of the Township of Wellesley or Local Board.

"Township" means The Corporation of the Township of Wellesley.

"Vexatious" means instituted without sufficient grounds and serving only to cause annoyance to the defendant; troublesome; annoying; a vexatious situation.

Any reference in this Code of Conduct to a statute, regulation, by-law, guideline, policy or other enactment shall be deemed to include any amendment, replacement, successor or consolidation of such statute, regulation, by-law, guideline, policy or other enactment.

3 STATUTORY PROVISIONS REGULATING CONDUCT

This Code of Conduct operates along with and as a supplement to the existing statutes governing conduct. The following federal and provincial legislation governs the conduct of Members of Council:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Provincial Offences Act*
- *Human Rights Code*
- *Criminal Code*
- by-laws and policies of Council as adopted and amended from time to time, including but not limited to the procedural by-law, procurement by-law and social media policy.

4 APPLICATION

This Code of Conduct shall apply to all Members of Council, Advisory Committees and Local Boards. In recognizing that Advisory Committees are comprised largely of citizen volunteers from across the Township who have been appointed by Council to provide advice and expertise, some of the provisions outlined herein may not be applicable to those Members. Accordingly, the conduct of Members of Advisory Committees shall be governed by the provisions of the Advisory Committee Members' Code of Conduct, attached hereto as Appendix 'A'.

5 CONDUCT AT MEETINGS

Members shall conduct themselves with decorum at all meetings in accordance with the provisions of the Township's Procedural By-law or the applicable procedural by-law of that Local Board. Respect for delegations, fellow Members and staff requires that all Members show courtesy and not distract from the business of the Township during presentations and when other Members have the floor. Use of electronic equipment during meetings should be limited for use/access for meeting purposes only.

6 TRANSPARENCY AND OPENNESS IN DECISION MAKING

Members will conduct and convey Council or Local Board business in an open and public manner so that the process, logic and rationale which were used to reach conclusions or decisions are available to the stakeholders.

7 IMPROPER USE OF INFLUENCE

No Member shall use the influence of his or her office for any purpose other than for the exercise of his or her official duties.

Examples of prohibited conduct are the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself or immediate relative, staff members, friends, or associates, business or otherwise. This includes attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Prohibited conduct also includes the holding out of the prospect or promise of future advantage through a Member's supposed influence within Council or the Local Board in return for present actions or inaction.

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

- a) is of general application;
- b) affects a Member, his or her immediate relative, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- c) concerns the remuneration or benefits of a Member as a Member of Council of a Local Board.

8 DISCREDITABLE CONDUCT

All Members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All Members shall ensure that their work environment is utterly free and completely devoid of discrimination, and personal and sexual harassment.

The Ontario *Human Rights Code* applies, as does the Township's Discrimination and Harassment-Free Workplace Policy which recognize the right of every employee to work in an environment that is free from discrimination and harassment, by the employer, agent of the employer, another employee, or any other person with whom s/he comes into contact in the normal performance of his/her duties.

Members shall abide by the provisions of the *Human Rights Code*, and, in doing so, shall treat every person, including other Members, employees, and individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.

In accordance with the *Human Rights Code*, Members shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, or disability.

In accordance with the *Human Rights Code*, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

Without limiting the generality of the foregoing, Members shall not:

- a) make inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
- b) display materials or transmit communications that are inappropriate, offensive, insulting or derogatory;
- c) make threats or engage in any abusive activity or course of conduct towards others;
- d) vandalize the personal property of others;
- e) commit assault of any kind, including making unwanted physical contact, including touching, patting, or pinching; or
- f) refuse to converse or interact with anyone based on any ground listed in the *Human Rights Code*.

9 CONDUCT RESPECTING STAFF

Mutual respect and cooperation are required to achieve Council's corporate goals and implement the corporate strategic priorities through the work of staff.

Employees have an obligation to recognize that members of Council have been duly elected to serve the residents of the Township of Wellesley and respect the role of Council in directing the actions of the Township.

Employees serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Members have no individual capacity to direct members of staff to carry out particular functions.

Inquiries of staff from Members should be directed to the Chief Administrative Officer or the appropriate staff of the Senior Management Team. Where inquiries have been delegated to a member of the senior management team, they may further delegate to the appropriate staff for a response.

Only Council as a whole and no single member has the authority to direct staff, approve budget, policy, committee processes and other such matters, unless specifically authorized by Council.

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 Township.

Members of Council voicing their personal opinion on a matter, either within or out of Council Chambers, shall ensure their opinion relates to the matter at hand and shall not make any negative comments or insinuations about staff or other Members of Council. Press releases, interviews, social media, and any other communications with the media and the public shall focus on policies and initiatives, not individuals. Members shall accurately communicate the ideas in reports as well as decisions of Council even if they disagree with the report or the decision.

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 by their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence Employees in the performance of such duties and obligations.

Certain Employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.

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.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Code of Conduct and include dealing with constituents and the general public, participating as committee members, participating as Chairs of Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of Township staff in both the carrying out of their responsibilities and in dealing with Council.

10. CONDUCT REPRESENTING THE TOWNSHIP

Members shall make every effort to participate diligently in the activities of the agencies, boards, and committees to which they are appointed.

11. COMMUNICATIONS AND MEDIA RELATIONS

Members will attempt to accurately and adequately communicate the attitudes and decisions of Council or the Local Board, even if they disagree with a majority decision of Council or the Local Board so that:

- a) there is respect for the decision making processes of Council or the Local Board;
- b) official information related to decisions and resolutions made by Council or the Local Board will normally be communicated in the first instance to the community and the media in an official capacity by the Mayor/Chair or designate;
- c) information concerning adopted policies, procedures and decisions of the Council or the Local Board is conveyed openly and accurately; and
- d) confidential information will be communicated only when and after determined by Council or the Local Board.

12. CONDUCT REGARDING CURRENT & PROSPECTIVE EMPLOYMENT

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

13. CONFIDENTIAL INFORMATION

Confidential information includes information in the possession of, or received in confidence by the Township or the Local Board that the Township or the Local Board is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (referred to as "MFIPPA"), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties that is of a corporate, commercial, scientific or technical nature and is provided expressly or implicitly in confidence, information that is personal, and information that is subject to solicitor- client privilege.

The *Municipal Act, 2001* allows information concerning personnel, labour relations, litigation, property disposal and acquisition, the security of the property of the municipality or a local board, and matters authorized on other legislation, to remain confidential. For the purposes of the Code of Conduct, "confidential information" also includes this type of information.

No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council or the Local Board to do so. Nor shall Members use confidential information for personal or private gain, or for the gain of immediate relatives or any person or corporation.

Under the Township's or the Local Board's Procedural By-law, a matter that has been discussed at an closed

session meeting remains confidential. No Member shall disclose the content of any such matter, or the substance of deliberations, of the closed session meeting until the Council or committee or the Local Board discusses the information at a meeting that is open to the public or releases the information to the public.

The following are examples of the types of information that a Member must keep confidential:

- a) the security of the property of the municipality or local board;
- b) personal matters about an identifiable individual, including municipal or local board employees;
- c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- d) labour relations or employee negotiations;
- e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
- h) items under negotiation, or personnel matters;
- i) information that infringes on the rights of others (i.e. sources of complaints where the identity of a complainant is given in confidence);
- j) price schedules in contract tenders or Request for Proposal submissions if so specified;
- k) information deemed to be "personal information" under the Municipal Freedom of Information and Protection of Privacy Act;
- l) statistical data required by law not to be released (i.e. certain census or assessment data); and
- m) any and all statements that have been provided in confidence

The above list is provided as an example and is not exclusive. Requests for information will be referred to Municipal Clerk to be addressed as either an informal request for access to municipal records, or as a formal request under MFIPPA.

Members should not access or attempt to gain access to confidential information in the custody of the Township or the Local Board unless it is necessary for the performance of their duties and not prohibited otherwise.

Members are only entitled to information in the possession of the Township that is relevant to matters before the Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen. As one example, no member shall have access to documents or receive any information related to a particular procurement process while the process is ongoing.

14. GIFTS AND BENEFITS

Members shall not accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to an immediate relative, friends, or associates, business or otherwise or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

The following are recognized as exceptions:

- a) compensation authorized by by-law;
- b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c) a political contribution otherwise reported by law, in the case of Members running for office; (i.e. disclosure related to election campaign contributions that are required to be otherwise reported.)
- d) services provided without compensation by persons volunteering their time;
- e) a suitable memento of a function honouring the Member;
- f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event where the Member is either speaking or attending in an official capacity;
- g) food and beverages consumed at banquets, receptions or similar events, if:
 - i. attendance is resultant to protocol or social obligations that accompanies the responsibility of office;
 - ii. the person extending the invitation or a representative of the organization is in attendance; and
 - iii. the value is reasonable and the invitations infrequent; and
- h) communication to the offices of a Member, including subscriptions to newspapers and periodicals.

In the case of categories (b), (e), (f), (g) and (h), if the value of the gift or benefit exceeds \$100, or if the total value received from any one source over a twelve (12) month period exceeds \$100, the Member shall within thirty (30) days of receipt of the gift or of reaching the annual limit, file a disclosure statement with the Clerk.

The disclosure statement must indicate:

1. the nature of the gift or benefit;
2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;
5. what the recipient intends to do with the gift; and
6. whether any gift will at any point become the property of the Township.

All disclosure statements will be a matter of public record.

On receiving a disclosure statement, the Clerk shall make the disclosure statement public. If a member of the public believes the Member has not conformed to the requirements of the Code of Conduct with respect to accepting gifts and benefits, he or she may request the Integrity Commissioner examine the statement to ascertain whether the receipt of gift or benefit might, in his or her opinion, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the Member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, s/he may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the Town.

15. PROFESSIONAL DEVELOPMENT

Members have an obligation to promote, support, pursue and partake in opportunities for professional development, including but not limited to:

- a. FCM Conferences
- b. AMO Conferences
- c. OSUM
- d. Ministry of Municipal Affairs and Housing seminars
- e. Provincial Professional Association Training Institutes (OGRA, AMCTO, PRO, etc.)
- f. Provincial Municipal Council orientation sessions

Members are encouraged to stay updated on issues and trends so that they can be as efficient and effective as possible in the carriage of their duties and responsibilities.

16. IMPROPER USE OF INFLUENCE

No member shall use the influence of his/her office for any purpose other than for the exercise of his/her official duties. No member shall seek or obtain by reason of his/her office any personal privilege or private advantage with respect to Township services not otherwise available to the general public and not of consequent to his/her official duties.

Examples of prohibited conduct are the use of one's status to improperly influence the decision of another person to the private advantage of oneself, or one's immediate relatives, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence in return for present actions or inaction.

17. USE OF TOWNSHIP PROPERTY, SERVICES AND OTHER RESOURCES

No member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties. No member shall obtain financial gain from the use of Township developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Township of Wellesley.

Members are required to follow the provisions of the *Municipal Elections Act, 1996* with respect to elections. Members shall not use the property, land, facilities, equipment, supplies, services or other resources of the Township or the Local Board (including but not limited to websites linked through the Township's website) for any election campaign or campaign-related activities. No Member shall undertake campaign-related activities on Township property during regular working hours unless permitted by Township policy (e.g., all candidates meetings). No Member shall use the services of persons for election-related purposes during hours in which those persons receive any compensation from the Township or the Local Board.

18. PUBLIC INPUT

Council will periodically use formal and informal opportunities to seek public input as a component of the decision making process which have broad impacts on the community. The purpose of the exercise will be to provide stakeholders with a mechanism to provide opinions and advice so that the widest range of views and information is available before final decisions are made.

19. IMPLEMENTATION

At the beginning of each term, Members of Council will be expected to sign the Code of Conduct to convey to each other and all stakeholders that they have read, understand and accept it.

A Code of Conduct component will be included as part of the orientation workshop for each new Council.

Council Members are expected to formally and informally review their adherence to the provisions of the Code on a regular basis or when so requested by Council.

20. COMPLAINT PROTOCOL

The Integrity Commissioner will only enforce the Code of Conduct with respect to members of Council.

Any individual, organization, Township or Local Board employee, and Member, who has reasonable grounds to believe that a Member has breached a provision of the Code of Conduct, may file a complaint. Complaints must be submitted within six (6) weeks of the matter first becoming known to the complainant and cannot be filed more than six (6) months after the alleged violation occurred. No action will be taken on a complaint received beyond either of the foregoing deadline.

The complaint protocol shall not retroactively apply to any alleged transgressions occurring prior to the date on which the Code of Conduct was formally adopted by Council.

20.1 Informal Complaints

Any individual (for example, municipal employees, members of the public, members of Council or local boards) or organizations who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code of Conduct are encouraged to address his or her concerns in the following manner:

- a) advise the Member that their behaviour or activity contravenes the Code of Conduct;
- b) encourage the Member to stop the prohibited behaviour or activity;
- c) if applicable, confirm to the Member his or her satisfaction or dissatisfaction with the Member's response to the concern identified;
- d) 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 18.2.

Any individual filing a complaint should 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.

Individuals and organizations are encouraged to initially pursue the informal complaint procedure outlined in this policy as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. A person is not required to undertake the informal complaint procedure prior to pursuing the formal complaint procedure.

20.2 Formal Complaints

All the provisions of this Section apply to a request for an inquiry by an individual or an organization other than a local board or Council as a whole. Individual members of Council or individual members of a local board are not precluded from filing a formal written complaint.

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

- a) all formal complaints must be made using the Complaints Form / Affidavit (see Appendix "C") and shall be dated and signed by the complainant;
- b) the complaint must include a concise explanation as to why the issue raised may be a contravention of the Code of Conduct and any and all evidence in support of the allegation must be included with the

Complaints Form/Affidavit;

- c) any witnesses in support of the allegation must be identified on the Complaint Form/Affidavit;
- d) the Complaint Form/Affidavit must include the name of the Member alleged to have breached the Code of Conduct, the section of the Code of Conduct allegedly contravened, the date, time and location of the alleged contravention and any and all other information as required on the Complaint Form/Affidavit;
- e) The request for an investigation shall be filed with the Township Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance of the Code of Conduct; and not covered by other legislation or other Council policies.
 - i. the Integrity Commissioner will determine whether the matter is, on its face, a complaint with respect to compliance with the Code of Conduct and is not covered by any other applicable legislation or policy; and
 - ii. the Integrity Commissioner may, but shall not be obligated, to request additional information from the complainant.

20.3 DEFERRAL

If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to the Code of Conduct, the Integrity Commissioner shall advise the Township Clerk in writing as follows:

- a) 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 they wish to pursue any such allegation, they must pursue it with the appropriate police force;
- b) If the complaint on its face is with respect to non-compliance with the Municipal Conflict of Interest Act, the complainant shall be advised to review the matter with their own legal counsel;
- c) If the complaint on its face is with respect to non-compliance with the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be advised that the matter will be referred to the Township Clerk for review;
- d) If the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and
- e) In other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate. For example, a complaint regarding a member of Township of Wellesley Council relating to their actions while serving on Regional Council would not be within the jurisdiction of the Integrity Commissioner, as the Region of Waterloo is a separate level of government; and the Integrity Commissioner will advise accordingly.

21. OPPORTUNITY FOR RESOLUTION

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.

22. INVESTIGATION

If a complaint has been classified as being within the Integrity Commissioner's jurisdiction, the Integrity Commissioner shall investigate.

22.1 *Complaint - Gifts and Benefits*

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 the disclosure statement to ascertain whether the receipt of the gift or benefit might, in his/her opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes that preliminary determination, he/she shall call upon the member to justify receipt of the gift or benefit. Should the Integrity Commissioner determine that receipt of the gift or benefit was inappropriate, he/she may recommend that Council 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 the gift or benefit already consumed to the Township; or such other action as the Integrity Commissioner deems to be appropriate.

22.2 Opportunity to Comment

The Integrity Commissioner will proceed as follows, except where otherwise required by the Public Inquiries Act:

- i) serve the complaint and supporting material upon the member whose conduct is in question with a request that a written response to the allegation be filed within ten days; and
- ii) serve the complainant with a copy of the member's written response with a request that the complainant provide a written reply within ten days.

If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in Section 223.4(2) of the Municipal Act, 2001 and may enter any municipal or local board work location relevant to the complaint for the purposes of investigation and settlement.

Prior to issuing a report finding a violation of the Code of Conduct on the part of any member, the member will have 10 days notice to respond in writing the Integrity Commissioner on their findings and any recommended sanction.

23. PUBLIC ENQUIRIES ACT

Under Section 223.4(2) of the Municipal Act, 2001, the Integrity Commissioner may elect to investigate a complaint by exercising the powers of a commission under Parts I and II of the Public Inquiries Act.

When the Public Inquiries Act applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this complaint protocol, but, if there is a conflict between a provision of the complaint protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.

24. REPORTS

24.1 Interim Reports

The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of delay, interference, obstruction or retaliation encountered during the investigation; or as otherwise deemed necessary by the Integrity Commissioner.

24.2 Final Report

The Integrity Commissioner shall publicly report the general findings of his/her investigation to the complainant and the member no later than 90 days after the making of the complaint. That report shall indicate when the Integrity Commissioner anticipates presenting his/her recommended corrective action(s) for Council's consideration.

Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also publicly report to Council outlining the findings, and/or recommended corrective action(s).

Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council or the local board except as part of an annual or other periodic report.

25. LAWFUL RECOMMENDATIONS

Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.

Section 223.3 of the Municipal Act, 2001 authorizes Council to impose either of two penalties on a member of Council or local board following a report by the Integrity Commissioner that, in his/her opinion, there has been a violation of the Code of Conduct:

- i) a reprimand; or
- ii) suspension of the remuneration paid to the member in respect of his or her services as a member of Council or local board, as the case may be, for a period of up to 90 days.

The Integrity Commissioner may also recommend that Council or a local board take the following actions:

- i) Removal from membership from an advisory committee or local board;
- ii) Removal as Chair of a Committee or local board;
- iii) Repayment or reimbursement of moneys received;
- iv) Return of property or reimbursement of its value; or
- v) A request for an apology to Council, the complainant, or both

26. 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 shall so state in the report and shall recommend that no penalty be imposed.

27. REPORT TO COUNCIL

The Township Clerk shall process the Integrity Commissioner's report for the next meeting of Council. Said report shall remain confidential until the matter has received complete and final disposition by the Integrity Commissioner and has been reported out to the members of Council through the Township Clerk.

28. DUTY OF COUNCIL/ LOCAL BOARD

Council shall consider and respond to the report within 90 days after the day the report is laid before it.

29. CONFIDENTIALITY

A complaint will be processed in compliance with the confidentiality requirements in Section 223.5 of the Municipal Act, 2001, which are summarized in the following subsections:

- i) The Integrity Commissioner and every person acting under her/his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Section 223.5(1) of the Municipal Act, 2001.
- ii) 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.
- iii) If the Integrity Commissioner reports to the municipality his/her opinion about whether a member of Council or advisory committee has contravened the applicable Code of Conduct, the Integrity Commissioner may disclose in the report such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.
- iv) The municipality shall ensure that reports received from the Integrity Commissioner are made available to the public upon the matter being reported out to the members of Council. Neither the Integrity Commissioner nor any person acting under the instructions of the Integrity Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this Part.
- v) if the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the Criminal Code of Canada, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council through the Township Clerk.

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.

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

30. NO COMPLAINTS OR REPORTS PRIOR TO ELECTION

If the Integrity Commissioner receives a complaint between nomination day as defined in the *Municipal Elections Act, 1996* and the date of the inaugural meeting of Council in any year in which a regular municipal election will be held respecting a Member who is seeking re-election and he is of the opinion that it is politically motivated, he may stay the investigation until after the inaugural meeting of the newly-elected Council and shall not be required to adhere to the time calculation referred to in Section 18.

31. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES

A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by Council, as the case may be. However, this provision does not prevent a Member from requesting that Council grant an exemption from a policy, other than this Code of Conduct.

32. REPRISALS AND OBSTRUCTIONS

Members shall respect the integrity of the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

33. ACTING ON ADVICE OF THE INTEGRITY COMMISSIONER

Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.

34. INTEGRITY COMMISSIONER VACANCY

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 therein. 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 Township could engage the services of an Integrity Commissioner from another local municipality as a potential interim measure.

35. ROLE OF INTEGRITY COMMISSIONER

- a) Review the Code of Conduct and other Township policies and procedures relating to the ethical behaviour of Council, as requested, to ensure they continue to meet the needs of the Township.
- b) Provide educational training to members of Council on its Code of Conduct and on matters of integrity, as requested;
- c) Provide advice to members of Council, in respect of its Code of Conduct either collectively or individually (*at the members expense as budgeted*) and assisting with the general interpretation of the *Municipal Conflict of Interest Act*, as required
- d) Investigate and report on complaints and alleged breaches of the Code of Conduct

APPENDIX 'A' - Advisory Committee Members' Code of Conduct

1. The purpose of an Advisory Committee is to provide informed advice and guidance, as well as to facilitate public input to the Council of the Township of Wellesley on programs and policies. In recognition of the impartial and objective advice received from Advisory Committees, as well as the challenges and inherent restrictions placed upon these same individuals in assessing and recommending various options in a conscientious and ethical manner, the following Code of Conduct is provided as a general standard for all Advisory Committee Members to ensure they are acting in a manner that is appropriate with regard to his or her committee.
2. The Advisory Committee Members' Code of Conduct shall be applicable to all members of the Township of Wellesley's Advisory Committees, including any subcommittees or ad hoc committees established.
3. 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 or her Advisory Committee;
 - b) respects due process and the authority of the Chair or Presiding Officer;
 - c) demonstrates respect for all fellow Advisory Committee Members, Council, staff and the public;
 - d) respects and gives fair consideration to diverse and opposing viewpoints;
 - e) demonstrates due diligence in preparing for meetings, special occasions, or other committee-related events;
 - f) demonstrates professionalism, transparency, accountability and timeliness in completing any tasks or projects undertaken by the committee;
 - g) conforms with all relevant legislation, by-laws, policies and guidelines; and,
 - h) contributes in a meaningful manner, offering constructive comments to Council, staff and fellow Advisory Committee Members.
4. A member of an Advisory Committee shall not:
 - a) place them self 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 or her official duties, preferential treatment to relatives or to organizations in which the member, his or her relatives have an interest, financial or otherwise;
 - c) deal with an application to the Township for a grant, award, contract, permit or other benefit involving the member, his or her immediate relative;
 - d) place them self 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 or her official duties which is not generally available to the public.
5. An Advisory Committee Member shall disclose immediately to the committee or the Clerk, who would disclose to the committee, that the member could be involved in either a real or perceived conflict of interest as prohibited by the Code; and shall abide by any decision made by the committee, with respect to such conflict of interest without recourse.
6. If an Advisory Committee Member is known to have a conflict of interest as prohibited by the Code and has not disclosed this to the committee; then that matter may be brought forward for the committee's consideration. When such a matter has been brought forward, the committee, through a majority vote, would determine if the Member is in a conflict position in accordance with the provisions of Section 2 of this Code.

7. 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 or 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.
8. Where the number of Advisory Committee Members who, by reason of conflict, are incapable of participating in a meeting such that the remaining Members no longer constitute a quorum; then the remaining members shall be deemed to constitute a quorum provided there are not less than two Members present.
9. Advisory Committee Members of whom are seeking consideration of an application, permit or appeal are permitted to address the committee regarding their application, permit or appeal; but are prohibited from taking part in the committee's deliberation and / or voting regarding that matter.
10. Should a member of an Advisory Committee breach any of the clauses set out herein, the Township Clerk may refer the matter to Council who will consider whether to take any of the possible corrective actions, as outlined in the Code of Conduct for Members of Council, Local Boards and Advisory Committees.

APPENDIX 'B' - Disclosure Statement

Section 14 of the Code of Conduct regarding the acceptance of gifts and benefits, requires Members to disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$100. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk within 30 days of receipt of such gift or benefit, or upon reaching the annual limit.

Disclosure Statements are a matter of public record.

Nature of Gift or Benefit received:

Source of Gift or Benefit:

Circumstances under which Gift or Benefit received:

Intended use of the Gift or Benefit (i.e. will it be donated/provided to the Township):

Estimates Value of Gift or Benefit: \$ _____

Date Gift or Benefit was received: _____ (MM/DD/YR)

Signature of Member

Date

Signature of Clerk

Date received

APPENDIX 'C' - Formal Complaint Form / Affidavit

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

Permanent place of residence: _____

Mailing address (if different from above): _____

I have personal knowledge of the facts as set out in this Affidavit because:
(insert reasons e.g. I work for... I attended a meeting at which... etc.)

I have reasonable and probable grounds to believe that _____ (specify name of Member in question) has contravened section(s) _____ of the Code of Conduct of the Township of Wellesley. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule "A" form and check the applicable box below.)

Schedule A attached Yes No

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

Sworn (or Affirmed) before me at the Township of Wellesley, in the Region of Waterloo, in the Province of Ontario on the _____ day of _____, _____.

A Commissioner, etc.

Signature of Complainant
(to be witnessed by Commissioner)

NOTE: This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority to confirm or verify the above sworn information. THE CRIMINAL CODE OF CANADA provides that: everyone commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years (sections 131, 132) or by summary conviction (section 134). Signing a false affidavit may expose you to prosecution under section 131 and 132 or 134 of the Criminal Code, R.S.C 1985, c. C-46 and also to civil liability for defamation.

