

The Corporation of the Town of Tecumseh

By-Law Number 2020 - 11

Being a by-law to adopt a revised Code of Conduct for Members of Tecumseh Council and Local Boards.

Whereas pursuant to Section 5(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, the powers of a municipality shall be exercised by its Council;

And Whereas Section 223.2(1) of the Municipal Act, 2001, S.O. 2001, c.25 requires a municipality to establish codes of conduct for members of the council of the municipality and its local boards;

And Whereas the Council of The Corporation of the Town of Tecumseh adopted a Code of Conduct for Members of Council, Local Boards and Committees by By-law No. 2014-01 on the 14th day of January, 2014;

And Whereas the Council of The Corporation of the Town of Tecumseh is desirous of adopting a updated Code of Conduct to set out broad principles, procedures, rules and policies governing the ethical behaviour in carrying out municipal roles and functions of the Members of Council and Local Boards, and the role and responsibility of the Integrity Commissioner in accordance with the Municipal Act, 2001, S.O. 2001 C.25 and the Municipal Conflict of Interest Act R.S.O. 1990, c. M.50 ;

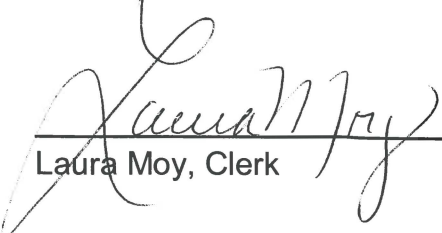
Now Therefore the Council of The Corporation of The Town of Tecumseh enacts as follows:

1. **That** Policy No. 63, attached hereto and forming part of this By-law as Schedule A establishing a Code of Conduct for the Members of Council and Local Boards, is approved;
2. **THAT** By-law No. 2014-01 is hereby repealed.

Read a first, second, third time and finally passed this 11th day of February, 2020.




Gary McNamara, Mayor


Laura Moy, Clerk



The Corporation of the Town of Tecumseh

Policy Manual

Policy Number:	63
Effective Date:	February 11, 2020
Supersedes:	By-Law No. 2008-47; RCM Jul. 8, 2008 (RCM-193/08) By-Law No. 2014-01; RCM Jan. 14, 2014 (RCM-19/14))
Approval:	January 28, 2020 PPC, PPC - 04/20 By-Law No. 2020-11; RCM Feb. 11, 2020 (RCM 47/20)
Subject:	Code of Conduct for Members of Council, and Local Boards

1.0 Scope

1.1 Members of Council, and Local Boards (Members) have important obligations and responsibilities to those they represent, serve and interact with in connection with carrying out the roles and duties of a Member's office. A Member's conduct and behavior in terms of ethics and interpersonal conduct and communications are regulated by legislative acts including:

- *Municipal Act*, 2001, S.O. 2001, c. 25 (Municipal Act);
- *Public Inquiry Act*, 2009, S.O. 2009, c. 33 (PIA);
- *Occupational Health and Safety Act* (OHSA);
- Ontario Human Rights Code (OHRC);
- *Municipal Freedom of Information and Protection of Privacy Act*, R.S. 1990, c.M. 56 (MFIPPA);
- *Municipal Elections Act*, 1996, S.O. 1996, c. 32 (MEA); and
- *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M. 50 (MCIA).

- 1.2 This Code applies to every Member of Council and to members of Local Boards, who are not members of Council, with necessary modifications applied at the discretion of the Integrity Commissioner

2.0 Purpose

- 2.1 The purpose and intent of this Code of Conduct for Members of Council, and Local Boards is as follows:

- a) to establish **rules** for ethical conduct required of Members;
- b) to establish **rules** to encourage and ensure interpersonal conduct, communications and interactions consistent with legal requirements (i.e. OHSA, OHRC); and
- c) to provide mechanisms to ensure accountability and compliance with the required ethical and interpersonal conduct standards of this Code of Conduct.

3.0 General Standards of Conduct:

- 3.1 Members shall conduct themselves at all times in a manner that:

- a) is consistent with and advances the interests of the community they serve;
- b) is consistent with the well-being and interests of The Corporation of the Town of Tecumseh (Corporation);
- c) is consistent with the Corporation's interest in transparency and accountability;
- d) reflects a diligent and impartial exercise of the office held to the best of the Member's knowledge and ability;
- e) reflects the Member's adherence to obligations in connection with avoidance of conflicts of interest; and
- f) is consistent with the legal deliverables governing interpersonal interactions (i.e. civil and respectful, free from harassment or discrimination, free from violence or the threat of violence).

4.0 Ethical Conduct Requirements:

4.1 Decision-making Process

- 4.1.1 Members shall conduct themselves with decorum during the proceedings of meetings. Members shall show courtesy and not distract from the business of the Council or Committee during presentations and when other Members have the floor.
- 4.1.2 Members shall accurately and adequately communicate the attitudes and decisions of Council and Local Boards, such that respect for the decision and decision-making process is fostered.
- 4.1.3 Members are responsible for making honest public statements and no member shall make a statement when they know that statement is false, or with the intent to mislead other members or the public

4.2 Conflict of Interest

- 4.2.1 Members shall conduct themselves in accordance with the MCIA, as amended from time to time.
- 4.2.2 Members have strict obligations to avoid conflicts of interest by taking the following steps whenever a Member has a direct or indirect pecuniary interest in any matter that is before them in a meeting where the Member is present:
 - a) disclose the general nature of the Member's interest prior to any consideration of the matter in the meeting;
 - b) refrain from participating in the discussion of the matter or in any vote on the matter; and
 - c) refrain from attempting to influence the voting on the matter or question, before, during or after the meeting.
- 4.2.3 Members have important ethical and statutory obligations to adhere to the steps outlined above to ensure avoidance of any conflict of interest in connection with carrying out the obligations of the Member's office.

4.3 Confidential Information

- 4.3.1 Members have a duty to hold in strict confidence all information concerning matters dealt with at In-Camera meetings (meetings closed to the public). Members shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the In-

Camera deliberations to anyone, unless expressly authorized by Council or required by law to do so.

4.3.2 Members shall not release information in contravention of the provisions of the MFIPPA.

4.3.3 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so.

4.3.4 Members shall not misuse confidential information (information that they have knowledge of by virtue of their position as a Councillor, Board or Committee Member that is not in the public domain, including e-mails and correspondence from other Members of Council, Board or Committee Member or third parties) such that it may cause detriment to the Corporation, Council or others, or benefit or detriment to themselves or others.

4.4 **Release of Information to Public and Media**

4.4.1 Members acknowledge that official information related to decisions and resolutions made by Council will normally be communicated to the community and the media by the Council as a whole or the Mayor as Head of Council, or by his/her designate. Further guidelines on the release of information to public and media are outlined in the Corporate Communication Policy No. 76.

4.5 **Acceptance of Gifts**

4.5.1 The stipend paid to each Member is intended to fully remunerate Members for service to the Corporation. Members shall not solicit, accept, offer or agree to accept a commission, reward, gift, advantage or benefit of any kind, personally or through a family member or friend, which is connected directly or indirectly with the performance or duties of office.

4.5.2 Members are not precluded from accepting:

- a) personal gifts, normal hospitality among persons doing business, benefits, rewards, commissions or advantages from any person or organization not connected directly or indirectly with the performance or duties of office;
- b) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- c) food, beverages and/or admission fees provided by banquets, receptions or similar events if attendance is the result of protocol or

social obligation consistent with the responsibilities of office, and the person extending the invitation has done so infrequently and that person or a representative of the donor is in attendance;

- d) services provided without compensation by persons volunteering their time;
- e) food, lodging, transportation and entertainment provided by other levels of governments or by other local governments, boards or commissions;
- f) reimbursement of reasonable expenses incurred in performing the duties of office;
- g) reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
- h) token gifts such as souvenirs, mementos and commemorative gifts that are given in recognition of service on a committee, for speaking at an event or representing the Corporation at an event; or
- i) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of office.

4.5.3 Members shall return any gifts or benefits which exceed these limits, along with an explanation why the gifts or benefits cannot be accepted.

4.6 **Engaging in Incompatible Activity**

4.6.1 Members shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of official duties or the public interest.

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

- a) use any influence of office for any purpose other than official duties;
- b) act as an agent before Council or any Committee, Board or Commission of Council;

- c) solicit, demand or accept the services of any employee of the Corporation, or any individual providing the services under contract of the Corporation, for re-election purposes during hours in which the employee, or individual providing services under contract, is in the paid employment of the Corporation;
- d) use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;
- e) place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment;
- f) give preferential treatment to any person or organization in which a Member has a financial interest;
- g) influence any decision or decision-making process of Administration or Council involving or affecting any person or organization in which a Member has a financial interest; or
- h) use the Corporation's materials, equipment, facilities or employees for personal gain or for any private purpose.

4.7 Avoidance of Waste

- 4.7.1 Members shall avoid waste, abuse and extravagance in the provision or use of public resources, or any other Corporation property.

4.8 Interpersonal Behaviour

- 4.8.1 Members shall be respectful of the fact that staff work for the Corporation and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any Member(s). 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 Corporation.
- 4.8.2 No Member shall compel staff to engage in partisan political activities or be subject 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 duty to disclose improper activity.

- 4.8.3 Members shall be respectful of the fact that staff carry out direction of Council and administer the policies of the Corporation, and are required to do so without any undue influence from any Member.

5.0 Interpersonal Conduct and Communication Requirements

5.1 General

- 5.1.1 Members have important legal responsibilities and accountabilities in connection with the tone and substance of interpersonal interactions, conduct or communications pursued in the context of carrying out the activity of a Member's office.
- 5.1.2 The purpose of this section of the Code of Conduct and the referenced policies is to ensure that Members governed by this Code of Conduct understand and comply with standards of conduct required by law in terms of their interpersonal interactions, communications and conduct; as well as the Corporation's Violence and Harassment in the Workplace Policy No. 68 and Harassment Policy No. 6.
- 5.1.3 The Corporation and Members, as agents of the Corporation, share important obligations in ensuring compliance with required standards of interpersonal conduct and interactions. A failure to adhere to the required standards of interpersonal conduct can expose both the Corporation and individual Members to potential liabilities.

5.2 Ontario Human Rights Code

- 5.2.1 The OHRC extends equality rights guarantees in the context of employment and the delivery of services. The Corporation is both an employer and service provider. As a result, the interactions and conduct of Members governed by this Code of Conduct generally occur in the context of providing services or interacting with employees.
- 5.2.2 In connection with such interactions, Members have a legal obligation to ensure adherence to equality rights guarantees. Members have an obligation to ensure that all individuals dealt with are treated with dignity and respect, and not exposed to harassment or discrimination as prohibited by the OHRC.
- 5.2.3 Members' obligations, in this regard, extend to anyone dealt with in the context of employment or delivery of services including, but not necessarily limited to, the following: other Members, employees of the Corporation, individuals providing services to the Corporation, contractors, students and the public.

5.3 Discrimination

5.3.1 In accordance with the OHRC, Members shall not discriminate against anyone on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability. The terms "age", "disability", "family status", "record of offences", "same-sex partnership status" shall be interpreted as they are defined in the OHRC.

5.4 Harassment

5.4.1 In accordance with the OHRC, Members shall not expose anyone to conduct representing harassment. Harassment includes engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome.

5.4.2 Without limiting the generality of the definition of "harassment", Members shall not:

- a) make racial, homophobic, sexist or ethnic slurs;
- b) display pornographic, homophobic, sexist, racist or other offensive or derogatory material;
- c) make leering (suggestive staring) or other offensive gestures;
- d) make written or verbal abuse or threats;
- e) vandalize the personal property of others;
- f) commit physical or sexual assault;
- g) make unwelcome remarks, jokes, innuendoes or taunting statements about a person's physical appearance, racial background, colour, ethnic origin, place of origin, citizenship, ancestry, creed (religion or belief), sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, disability (physical or mental);
- h) make unwelcome remarks, insulting gestures or jokes which cause embarrassment or awkwardness;
- i) refuse to converse or interact with anyone because of their racial or ethnic background, colour, creed, sex, sexual orientation, age, record of offences, marital status, same-sex partnership status, family status, or disability;

- j) make unnecessary or unwanted physical contact, including touching, patting, or pinching; or
- k) demand or request sexual favours.

5.4.3 Harassment which occurs in the course of, or related to, the performance of duties by Members is subject to this policy and the Violence and Harassment in the Workplace Policy and Harassment Policy appended.

5.5 Occupational Health and Safety Act

5.5.1 The OHS Act has identified and prohibited the potential health risk of "personal harassment" or "psychological harassment" in workplaces. The OHS Act has also serious and significant obligations to ensure the removal of the risk, threats, or acts of violence in Ontario workplaces.

5.6 Personal or Psychological Harassment

5.6.1 Members must ensure that their interactions, personal communications and conduct are constructive, civil, respectful, and devoid of any content or tone that would constitute "personal harassment" or "psychological harassment".

5.6.2 Personal and Psychological Harassment includes unwelcome words and/or actions that are known, or should have been known, to be embarrassing, humiliating or demeaning. Such conduct can include, but is not limited to, the following:

- a) remarks, jokes, comments or innuendo that demean, ridicule, intimidate or offend;
- b) bullying;
- c) repeated offensive or intimidating phone calls, e-mails or verbal outbursts;
- d) yelling, screaming or rude, demeaning remarks;
- e) volatile displays of temper or anger; and
- f) exposing people to foul, abusive or obscene language.

5.7 Members are required to ensure that they interact and communicate in a manner that is respectful and consistent with the well-being of those they deal with. Members must ensure that their interactions and communications are free of any conduct that would be considered personal or psychological harassment.

5.8 Violence

5.8.1 Members must ensure that they avoid any interactions, communications or conduct with employees that would constitute "Workplace Violence". Employees of the Corporation have significant rights and recourses if exposed to any threat of violence or act of violence in connection with work or work related activity including conduct by or interactions with Members.

5.8.2 Workplace violence is defined as the exercise of physical force by a person against a worker in a workplace that causes or could cause physical injury to the worker. To appreciate the broad nature of the definition of violence, it is important to understand that violence includes the following:

- a) attempts to exercise force that could cause physical injury (does not have to cause injury); and
- b) statements or behaviour that could reasonably be interpreted as a threat to exercise physical force (verbal threats will constitute violence).

5.8.3 Examples of violence include:

- a) verbal threats, attacks or physical conduct;
- b) threatening notes, e-mails, or voice mail communications;
- c) shaking a fist or other threatening physical gestures; and
- d) wielding an object as a weapon at an individual.

5.8.4 Members are required to ensure that they avoid any interactions, conduct, communications, or gestures that would constitute violence or a threat of violence.

5.9 Municipal Elections Act

5.9.1 Members are required to follow the provisions of the MEA.

- 5.9.2 No Member shall use the property, facilities, equipment, supplies, services or other resources of the Corporation (including Councillor newsletters, telephone system and Councillor websites linked through the Corporation's website) for any election campaign-related activities. No Member shall undertake campaign-related activities on Corporation property. No Member shall use the services of persons during hours in which those persons receive any compensation from the Corporation.
- 5.9.3 Further guidelines on Member conduct during an election are outlined in the Corporation's Use of Corporate Resources for Election Purposes Policy No. 69.

6.0 Compliance, Accountability, and Enforcement

6.1 General

- 6.1.1 The Corporation has important obligations and interests in ensuring compliance with the ethical and interpersonal conduct standards required of Members by this Code of Conduct.
- 6.1.2 The Corporation has an interest and obligation to respond to all allegations, complaints or incidents of alleged conduct inconsistent with the standards outlined in this Code of Conduct (and the Violence and Harassment in the Workplace Policy) in a manner consistent with the interests and legal obligations of the Corporation.
- 6.1.3 The Corporation recognizes that the Corporation and the Members have a mutual interest in providing and encouraging access to compliance/enforcement mechanisms in connection with the conduct required by this Code of Conduct that deliver objective, independent, skilled and efficient determinations in connection with alleged misconduct by any Member.

6.2 Integrity Commissioner

- 6.2.1 The Corporation shall appoint an Integrity Commissioner pursuant to Section 223.3(1) of the *Municipal Act* to inquire into and determine any alleged non-compliance with the standards of conduct defined in the Code of Conduct by a Member.
- 6.2.2 The referral of alleged breaches of the Code of Conduct to the Integrity Commissioner under this Code of Conduct does not preclude the rights of potential claimants/complainants at law or pursuant to Corporation policies.

6.2.3 The Integrity Commissioner shall provide the following services:

- a) The application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them.
- b) The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them.
- c) The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council or of local boards.
- d) Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
- e) Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
- f) Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
- g) The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's code of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

6.3 Informal Code of Conduct Complaint Procedure for Complainants

6.3.1 Individuals (for example, municipal employees, members of the public, Members of Council, Committees or Local Boards), or organizations who have identified or witnessed behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct may address the prohibited behaviour or activity themselves as follows.

- a) Advise the Member that the behaviour or activity contravenes the Code of Conduct.
- b) Encourage the Member to stop the prohibited behaviour or activity.

- c) Keep a written record of the incident(s) including dates, times, locations, other persons present and any other relevant information.
- d) Tell someone else (for example, a senior staff member or an officer of the organization) about your concerns, your comments to the Member and the response of the Member.
- e) If applicable, advise the Member of your satisfaction with their response or, if applicable, advise the Member of your dissatisfaction with their response.
- f) Consider the need to pursue the matter in accordance with the formal complaint procedure or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

6.4 Formal Code of Conduct Complaint Procedure for Complainants

6.4.1 Individuals (for example, municipal employees, members of the public, Members of Council, or Local Boards), or organizations who have identified or witnessed behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct may file a formal complaint and request an investigation by executing the following steps.

- a) The complainant shall submit the complaint in writing by filling out the appended Affidavit (Appendix 1) and submitting it to the Integrity Commissioner by mail, e-mail, fax or courier. The Affidavit must be signed by an identifiable individual.
- b) The Affidavit shall set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and set out the evidence in support of the complaint with specific reference to sections of the Code which have been breached.
- c) A Complaint Procedure Information Package shall be available at the Director Corporate Services & Clerk's office.

6.4.2 The Integrity Commissioner shall undertake an initial review of a complaint that has been filed and shall determine whether the matter relates to non-compliance with the Code or other corporate policy applying to Members. The Integrity Commissioner shall have no power or jurisdiction to investigate or otherwise deal with the complaint, if the complaint is not alleging a contravention of the Code or other corporate policy applying to Members or if the complaint relates to the following matters:

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- a) **Criminal Matter** – if the complaint relates to 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 relates to a matter under the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be referred to the Clerk.
 - c) **Municipal Elections Act** – if the complaint relates to the enforcement of the Municipal Elections Act, the complainant shall be referred to the Compliance Audit Process if the matter relates to campaign finances or to such other avenues of investigation as dictated by that Act.
- 6.4.3 If the Integrity Commissioner determines they do not have jurisdiction as described in Section 6.4.2, the Integrity Commissioner shall advise the complainant in writing accordingly.
- 6.4.4 The Integrity Commissioner may dispose of a complaint on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may do so confidentially or report same to Council. The Integrity Commissioner may also seek further information or clarification from the complainant and shall endeavour to apprise the complainant of subsequent steps and the processing of the complaint and any ensuing investigation.
- 6.4.5 If the Integrity Commissioner is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the complaint in a summary manner. The Integrity Commissioner shall advise the complainant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.
- 6.4.6 If the Integrity Commissioner has decided to commence an investigation of a complaint (except where otherwise required by the *Public Inquiries Act*, 2009, if applicable), the Integrity Commissioner shall provide a copy of the complaint and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within fourteen (14) days. The Integrity Commissioner may provide the response from the Member to the complainant with a request for a written reply also within fourteen (14) days.

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- 6.4.7 The Integrity Commissioner shall review the written responses and may, if necessary discuss the matter with anyone that the Integrity Commissioner considers is relevant to the complaint. The Integrity Commissioner may access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act, 2001* and may access any Town workplace relevant to the complaint, including any documents or records under the custody or control of the Town.
- 6.4.8 Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the respondent Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.
- 6.4.9 Upon conclusion of a complaint investigation, the Integrity Commissioner shall:
- a) issue a report to Council on the findings of the investigation and, where there is a finding of contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and
 - b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the complainant at the same time as the report becomes public.

6.5 Application Under The Municipal Conflict Of Interest Act

- 6.5.1 An Application to the Integrity Commissioner to inquire into an alleged contravention of Sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* ("MCIA") may be made by an elector as defined in Section 1 of the MCIA or by a person demonstrably acting in the public interest, as follows:
- a) An application shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
 - b) An Application must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);
 - c) An Application shall include:

- An explanation with specific reference to sections of the MCIA, as to why the issue raised is alleged to be a contravention of the Act;
 - any evidence in support of the allegation;
 - any witnesses in support of the allegation must be identified; and
 - a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention not more than six weeks before the date of application in accordance with Section 223.4.1 (5) and (6) of the *Municipal Act*, as amended.
- d) An Application may only be made within six weeks after the applicant became aware of the alleged contravention and otherwise in compliance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

6.5.2 Upon conclusion of an Application investigation, the Integrity Commissioner may, if he/she considers it appropriate, apply to a Judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravened Section 5, 5.1 or 5.2 of the Act.

6.5.3 The Integrity Commissioner shall:

- a) advise the applicant if he or she will not be making an application to a judge; and
- b) after deciding whether or not to apply to a judge, provide a written report providing reasons for the decision.

6.6 Opportunity for Resolution

6.6.1 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 informal resolution.

6.7 Duty of Council

6.7.1 The Council shall consider the report of the Integrity Commissioner within thirty (30) days of it being received by the Clerk and shall take the action it

considers appropriate with regard to the recommendation(s) of the Integrity Commissioner.

6.7.2 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*, requesting a judicial investigation into the Member's conduct.

6.8 Election Blackout Period

6.8.1 No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to Council respecting an investigation, within the election period between nomination day and six weeks after voting day, except as provided in s.223.4 and 223.4.1 of the *Municipal Act*.

6.9 Confidentiality of Complaint Documents

6.9.1 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*.

6.9.2 Pursuant to section 223.5(3) of the *Municipal Act*, this section prevails over the MFIPPA.

6.9.3 If the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code of Conduct, the report shall only disclose such information, that in the Integrity Commissioner's opinion, is required for the purposes of the report.

6.9.4 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.

6.10 Penalties

6.10.1 Penalties imposed in connection with breaches of the Code of Conduct pursuant to the Code of Conduct may include:

- a) a written reprimand; and/or
- b) suspension of remuneration paid to a Member with respect to services up to ninety (90) days (section 223.4(5) of the *Municipal Act*).

6.11 Conduct Investigation Refusal

- 6.11.1 If the Integrity Commissioner is of the opinion that the referral of a matter to him/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 that becomes apparent in the course of an investigation, terminate the investigation.
- 6.11.2 Complaints referred that are repetitious in nature, not germane to the Code of Conduct in the opinion of the Integrity Commissioner, deemed frivolous and without substance in the opinion of the Integrity Commissioner, or, where the complaint is deemed vexatious in the opinion of the Integrity Commissioner, complaints shall not be advanced to an investigation stage.
- 6.11.3 Other than in exceptional circumstances, the Integrity Commissioner will not report to Council or a Local Board on any complaint described in subsections (a) and (b) except as part of an annual or other periodic report.

6.12 Other Avenues of Complaints

- 6.12.1 While the Corporation encourages and supports the use of the Integrity Commissioner as the means of addressing any issues of non-compliance with the Code of Conduct by Members, the Corporation has an obligation and commitment to support complainants or potential complainants' use of the following avenues of complaint.
- 6.12.2 Complainants have the right to the procedures committed to in the Corporation's relevant policies for harassment, discrimination and violence.
- 6.12.3 Complainants have the right to file complaints with the Ontario Human Rights Tribunal (in connection with human rights allegations).
- 6.12.4 Complainants have the right to file complaints with the ministry of Labour (in connection with allegations of violence, threats of violence or personal harassment).
- 6.12.5 Complainants have the right to bring a matter to the Ontario Provincial Police to pursue an investigation under Section 122 of the Criminal Code of Canada where allegations of fraud, of breach of trust or of a Member's involvement with demands for, acceptance of, offering of or agreement to accept a loan, reward, benefit or other advantage from any person, are made in connection with a Member carrying out the duties of office.

6.13 Judicial Investigation

6.13.1 In circumstances where liability is denied and the alleged misconduct is serious in nature, Council may pass a resolution, pursuant to section 274(1) of the *Municipal Act*, requesting a judicial investigation into the Member's conduct.

7.0 Summary

7.1.1 The Corporation and all Members of Council share an important interest and responsibility in ensuring that the standards of conduct required under this Code of Conduct are understood, maintained and, where necessary, enforced by holding Members accountable.

7.1.2 The standards reflect the ethical and legal context in which the Corporation and Members must deliver services to the community served by the Council and Members.

7.1.3 Deviations from the standards of conduct outlined in this Code of Conduct leave the Corporation, Council and individual Members exposed to the following:

- a) reputational risk;
- b) loss of credibility in the community; and
- c) risks of significant liabilities.

7.1.4 All Members are expected to be knowledgeable of the contents of this Code of Conduct and to adhere to the standards of conduct defined in the Code of Conduct.

7.2 References

- Harassment Policy No. 06
- Accountability and Transparency Policy No. 61
- Violence and Harassment in the Workplace Policy No. 68
- Use of Corporate Resources for Election Purposes Policy No. 69
- Corporate Communication Policy No. 76



Affidavit

Code of Conduct Complaint Protocol – Formal Complaint Procedure

Please note that 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.

Affidavit of: _____ (full name)

I, _____ (full name) of the (City, Town, etc.) _____

in the Province of Ontario

Make Oath and Say (or Affirm):

1. I have personal knowledge of the facts as set out in this affidavit, because (insert reasons i.e. I work for... I attended the meeting at which... etc.).

2. I have reasonable and probable grounds to believe that a member of Town of Tecumseh Council, _____ (specify name of member), has contravened section(s)

_____ [specify section(s)] of the Code of Conduct for Members of

Council, Committees and Local Boards (Code of Conduct). The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space, please use the attached Schedule A form and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc. and attach them to this affidavit.)

Please see the attached Schedule A

This affidavit is made for the purpose of requesting that this matter be reviewed and for no other purpose.

Sworn (or Affirmed) before me at The Corporation of the Town of Tecumseh in the province of Ontario on

_____ A Commissioner for taking affidavits, etc. – Signature

_____ Date

_____ Complainant Affidavit – Signature

_____ Date



Affidavit

Code of Conduct Complaint Protocol – Formal Complaint Procedure

Please note that 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.

Schedule A

To the affidavit required under subsection 2(3) of the Formal Complaint Procedure
(If more than one page is required, please photocopy this blank page and mark each additional page as 2 of 2, 2 of 3, etc. at the top right corner.)

This is Schedule A referred to in the affidavit of

(Full Name)

Sworn (or Affirmed) before me on this

_____ day of _____

A Commissioner for taking affidavits, etc. – Signature

Complainant Affidavit – Signature

Date of Submission

*Personal information on this form is collected under the authority of Section 239 of the Municipal Act, 2001 (as amended) [Act] and will be used only for the purpose of carrying out an investigation under the Act.