



Schedule “A” to By-law N° 13-2019

## COUNCIL AND LOCAL BOARDS CODE OF CONDUCT

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## **PART 1: SHORT TITLE**

- 1.1 This By-law shall be known as the Council and Local boards Code of Conduct for the Corporation of the Town of Hawkesbury, hereafter “Code of conduct”.

## **PART 2: STATEMENT OF INTENT**

- 2.1 To guide those who are covered by this Code of conduct in their day-to-day responsibilities on behalf of the citizens of the Town of Hawkesbury. These standards are designed to supplement the legislative parameters within which the members must operate.

## **PART 3: APPLICATION**

- 3.1 All members of Council and members of local boards are expected to follow this Code of conduct, the Council Procedural By-law and other sources of applicable procedural law. They are also subject to other sources of law such as the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, the *Municipal Elections Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, the *Occupational Health and Safety Act* (violence and harassment in the workplace); the *Human Rights Code* and the *Criminal Code of Canada*.

## **PART 4: DEFINITIONS**

In this Code of Conduct:

“**Complaint**” means a request that the Integrity Commissioner conducts an inquiry into an action, event, or series of events alleged to have contravened the Code of conduct, or any other procedures, rules or policies governing the ethical behaviour of members;

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

“**Complainant**” means a person who makes a complaint;

“**Council**” means the Council of the Corporation of the Town of Hawkesbury;

“**Director**” means an employee of the Corporation of the Town of Hawkesbury responsible for the management of a specific department of the Town and includes the Chief Administrative Officer and their respective delegate;

“**Good faith**” means accordance with standards of honesty, trust and sincerity;

**“Information”** includes a record or a document;

**“Local board”** means a municipal service board, transportation commission, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding the following:

- (a) a school board;
- (b) a conservation authority
- (c) a society as defined in subsection 2 (1) of the *Child, Youth and Family Services Act, 2017*;
- (d) a committee of management established under the *Long-Term Care Homes Act, 2007*;
- (e) a corporation established in accordance with section 203 of the *Municipal Act, 2001*;
- (f) such other local boards as may be prescribed in the *Municipal Act, 2001*.

**“Member”** means a member of the Council and of a local board;

**“Parent”** means a person who has demonstrated a settled intention to treat a child as a member of his or her family;

**“Person”** includes a corporation, partnership, association and any other entity, as the context allows;

**“Spouse”** means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage;

**“Staff”** means a person employed by the Town, including those employed on personal service contracts and volunteers, but does not include members of Council or local boards;

**“Town”** means the Corporation of the Town of Hawkesbury;

## **PART 5: GENERAL INTEGRITY**

- 5.1 All members whom this Code of conduct applies shall serve their constituents in a conscientious and diligent manner. Members shall not use the influence of office for any purpose other than the exercise of his or her official duties.

This Code of conduct sets standards for the behaviour of Council and local board members in carrying out their functions. It has been developed to assist members to:

- 5.1.1 Understand the standards of conduct that are expected of them and the law that applies in relation to these standards;

- 5.1.2 Fulfill their duty to act honestly and exercise reasonable care and diligence;
  - 5.1.3 Act in a way that enhances public confidence in local government; and
  - 5.1.4 Identify and resolve situations that might involve a conflict of interest or a potential misuse of position and authority. This Code of conduct outlines each individual's responsibility to uphold these principles and values, and act in the public interest.
- 5.2 Interpersonal behaviour:
- 5.2.1 Treat every person with dignity, understanding and respect;
  - 5.2.2 Not discriminate;
  - 5.2.3 Not engage in violence or harassment of any kind.

## **PART 6: GIFTS, BENEFITS AND HOSPITALITY**

- 6.1 No member shall accept a fee, advance, gift, personal benefit, hospitality of anything of the kind that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.
- 6.2 For these purposes a fee, advance, gift, personal benefit, hospitality or anything of the kind provided with the member's knowledge to a member's spouse, child, parent, brother, sister, father-in-law, mother-in-law, sister-in-law and brother-in-law 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.
- 6.3 The following are recognized as exceptions:
- 6.3.1 Compensation or benefit authorized by Council or by law;
  - 6.3.2 Gifts or benefits that normally accompany the responsibilities of office received as protocol or social obligation;
  - 6.3.3 A political contribution authorized and reported as required by law, in the case of member running for office;
  - 6.3.4 Services provided without compensation by persons volunteering their time;
  - 6.3.5 A suitable memento of a function honouring the member;

- 6.3.6 Food, lodging, transportation and entertainment provided by any Provincial, regional and local governments, or board or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by those organizing a conference, seminar or event where the member is speaking or attending in an official capacity;
- 6.3.7 Food and beverages consumed at banquets, receptions or similar events, if:
  - 6.3.7.1 attendance serves a legitimate business purpose;
  - 6.3.7.2 the person extending the invitation or a representation of the organization is in attendance; and
  - 6.3.7.3 the value is reasonable and the invitations infrequent.
- 6.3.8 Media communications to the office of a member, including subscriptions to newspapers and periodicals; and
- 6.3.9 A sponsorship or donation for a community event organized or run by a member, or a third part on behalf of a member, subject to the limitations set out in any applicable municipal policy.
- 6.4 Except for exception 6.3.3 (political contributions authorized by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer. In this provision a lobbyist is an individual, organization or business who or that:
  - 6.4.1 Lobbies, or causes the lobbying of, any public office holder of the Town, the Council or a local board; or
  - 6.4.2 The member knows is attempting or intending to lobby the member or any of the public persons or bodies listed in paragraph 6.4.1.
- 6.5 Council is the custodian of the assets of the Town. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.
- 6.6 Members of Council and members of local boards must not use municipal assets for personal convenience, or for profit, except where such privileges are granted to the public or provided by law.
- 6.7 Members of Council and members of local boards must not accept gifts and benefits except as provided under law and in the course of their duties. They may accept gifts of token value only but should be aware that, even these, may place them in a position where their actions are open to serious question.
- 6.8 If a member receives a gift or benefit and the value of the gift or benefit exceeds \$100, or if the total value received from any source during the course of a calendar

year exceeds \$100, the member shall within 30 days of receipt of the gift or benefit or of reaching the annual limit, file a disclosure statement on the form attached hereto as Appendix "C" with the Clerk. The disclosure statement must indicate:

- 6.8.1 The nature of the gift or benefit;
- 6.8.2 Its source and date of receipt;
- 6.8.3 The circumstances under which it was given or received;
- 6.8.4 Its estimated value;
- 6.8.5 What the recipient intends to do with it; and
- 6.8.6 Whether it will at some point be provided to the Town.

Any disclosure statement made under this subsection will be a matter of public record.

## **PART 7: EXPENSES**

- 7.1 Members of Council are required to adhere to the Policy on the reimbursement of expenses incurred because of the position and the Policy for the reimbursement of expenses and traveling costs of municipal elected and staff, as amended from time to time, and related procedures and guidelines and ensure that conditions related to each expense are met.
- 7.2 Falsifying of receipts or signatures by a member is a serious breach of this Code of conduct and the *Criminal Code of Canada* and could lead to prosecution.

## **PART 8: CONFIDENTIAL INFORMATION**

- 8.1 Members have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. They either shall not, directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council, by the local board or required by law.
- 8.2 Members must not disclose, use or release information in contravention of applicable privacy law. They are only entitled to information in the possession of the Town that is relevant to matters before the Council or a local board. 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.

- 8.3 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council, by the local board or required by law.
- 8.4 Members shall:
- 8.4.1 Keep confidential any information that is circulated to members marked confidential.
  - 8.4.2 Return any information marked confidential to the Chief Administrative Officer's office for destruction.
- 8.5 The obligation to keep information confidential applies even if the member ceases to be a Council or local board member.
- 8.6 Protection of Privacy:
- 8.6.1 Confidential information includes information in the possession of, or received in confidence by the Town that the Town is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.
  - 8.6.2 No member shall disclose or release by any means to anyone, 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 local board to do so.
  - 8.6.3 No member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.

## **PART 9: CONDUCT AT MEETINGS OF COUNCIL AND LOCAL BOARDS**

- 9.1 Members shall conduct themselves with decorum at all Council and local board meetings in accordance with the provisions of the Procedural By-law, as amended from time to time and this Code of conduct.

## **PART 10: CONDUCT RESPECTING STAFF**

- 10.1 Roles and responsibilities

The Chief Administrative Officer (CAO) shall take direction from and be responsible to Council of the Town, but shall not be instructed or directed by or

be responsible to any individual member of the Council. The CAO shall consult with Council with respect to any matter of concern to the Town or to any of its local boards. Clearly defined roles, distinguishing between the concepts of “governance” and “management”, are critical to the success of a municipality. It will be reinforced at the outset that Council sets the policy for the community; it does not engage or participate in the daily operations of the Town.

## 10.2 Interaction with staff

The Town has worked diligently at creating a positive working relationship between Council and staff. This has been successful, largely due to a mutual respect for each other’s roles and responsibilities.

10.2.1 Only Council, acting as a body, can dictate that staff perform such duties as are necessary to the efficient management of the affairs of the community, and/or research such matters as the Council deems necessary. Individual members do not have authority to direct the CAO, directors, or staff.

10.2.2 The role of the CAO and the directors is to direct the day to day management of the Town, and assign duties to the staff placed under their supervision. To encourage the efficient management of the community, individual Council and local board members are requested to be mindful of that fact and are advised of the following:

10.2.2.1 Council will respect and adhere to the policies set by Council, and will under no circumstance take it upon themselves to circumvent or ask staff to circumvent established policies. Only Council as a whole, at a formal meeting, has the authority to amend policies;

10.2.2.2 Council as a whole, and Council members as individuals, will liaise primarily with the CAO or directors. This requirement is not designed to interfere with the normal flow of information with those staff members who have been assigned the responsibility of providing information to Council by the directors or CAO;

10.2.2.3 Questions or issues surrounding operational concerns or complaints, excluding the basic issues covered above, should be directed to the CAO or to the directors.

10.3 The *Municipal Act, 2001* sets out the roles of members of Council and the municipal administration, including specific roles for statutory officers such as the Chief Administrative Officer, Clerk, Treasurer and the Integrity Commissioner.

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



- 10.5 Council as a whole has the authority to approve budget, policy, governance and other such matters. Under the direction of the CAO, Town staff serves Council as a whole and in accordance with the decisions of Council. Members have no individual capacity to direct members of staff to carry out particular functions.
- 10.6 Members of Council are expected to:
- 10.6.1 Represent the public and to consider the well-being and interests of the Town;
  - 10.6.2 Develop and evaluate the policies and programs of the Town;
  - 10.6.3 Determine which services the Town provides;
  - 10.6.4 Ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of Council;
  - 10.6.5 Ensure the accountability and transparency of the operations of the Town, including the activities of the senior management of the Town;
  - 10.6.6 Maintain the financial integrity of the Town; and
  - 10.6.7 Carry out the duties of Council under the *Municipal Act, 2001* or any other Act.
- 10.7 Municipal staff is expected to:
- 10.7.1 Implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions;
  - 10.7.2 Undertake research and provide advice to Council on the policies and programs of the Town; and
  - 10.7.3 Carry out other duties required under the *Municipal Act, 2001* or any Act and other duties assigned by the Town.
- 10.8 Members of Council shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual member or group of members of Council.
- 10.9 Members of Council shall not:
- 10.9.1 Maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff;

- 10.9.2 Compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or
- 10.9.3 Use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties.

## **PART 11: HARASSMENT**

- 11.1 Harassment of another member, staff or any member of the public is misconduct. It is the policy of the Town that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment.
- 11.2 Harassment may be defined as a behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, handicap, sexual orientation, marital status, or family status and any other grounds under the provisions of the *Human Rights Code*.
- 11.3 In accordance with the *Human Rights Code*, as amended, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 11.4 Without limiting the generality of the foregoing, members shall not:
  - 11.4.1 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;
  - 11.4.2 Display materials or transmit communications that are inappropriate, offensive, insulting or derogatory via any communication means, including but not limited to social media, print material, websites or verbally;
  - 11.4.3 Make threats or engage in any abusive activity or course of conduct towards others;
  - 11.4.4 Vandalize the personal property of others;
  - 11.4.5 Commit assault of any kind, including making unwanted physical contact, including touching, patting, or pinching; or
  - 11.4.6 Refuse to converse or interact with anyone based on any ground listed in the *Human Rights Code*, as amended.

- 11.5 Harassment, which occurs in the course of, or is related to, the performance of official duties by members is subject to this Code of conduct and shall be investigated by the Integrity Commissioner.

## **PART 12: COMMUNICATIONS AND MEDIA RELATIONS**

- 12.1 It is understood that the Mayor, as Head of Council, is the primary spokesperson for the Council. Therefore, the following shall apply to other Council members:
- 12.1.1 Members will accurately communicate the decisions of Council, even if they disagree with the majority decision of Council, and by doing so, affirm the respect for and integrity in the decision-making process of Council. A member may state that he/she did not support the decision, or voted against the decision;
  - 12.1.2 Members shall refrain from making judgemental or critical comments about other members, staff, or Council's processes and decisions;
  - 12.1.3 Members shall refrain from speculating or reflecting upon the motives of other members or staff, when communicating with the media;
  - 12.1.4 The Communication Coordinator, or designate, will work/consult with the Head of Council and/or CAO Council members regarding media releases as necessary.

## **PART 13: MUNICIPAL CONFLICT OF INTEREST ACT**

- 13.1 Members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act* as amended from time to time.
- 13.2 The following principles should be used as a guide:
- 13.2.1 In making decisions, always place the interests of the taxpayers first and, in particular, place them before the interests of colleagues on Council or on a local board, staff, friends or family;
  - 13.2.2 Always interpret the phrase "Conflict of interest" in the broadest possible terms;
  - 13.2.3 Any factor which could be considered a conflict by taxpayers should be treated as a conflict and be disclosed by the member;
  - 13.2.4 If in doubt, it is better to disclose a situation;
  - 13.2.5 If in doubt, it is the responsibility of individual members to obtain

independent legal advice or to consult the Integrity Commissioner of the Town with respect to any situation that might arise whereby there is a potential for a conflict of interest;

- 13.2.6 It is considered a breach of this By-law to require or to attempt to burden staff members to assist in the determination of a conflict of interest for individual members.

#### **PART 14: IMPROPER USE OF INFLUENCE**

- 14.1 As an elected or appointed official, members are expected to perform their duties of office with integrity, accountability and transparency. Members should not use the status of their position to influence the decision of another individual to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise.

#### **PART 15: ELECTION-RELATED ACTIVITY**

- 15.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and specifically to the Use of Municipal Resources Policy (C-P-2018-01) as amended from time to time.

#### **PART 16: USE OF MUNICIPAL PROPERTY AND RESOURCES**

- 16.1 In order to fulfill their roles as elected or appointed representatives, members have access to municipal resources such as property, equipment, services, staff and supplies. No member shall use, or permit the use of Town land, facilities, equipment, supplies, services, staff or other resources (for example, Town-owned materials, or websites) for activities other than purposes connected with the discharge of Council and local board duties or Town business.
- 16.2 No member shall obtain financial gain from the use or sale of Town-developed intellectual property, computer programs, technological innovations, or other patent, trademark, copyright held by the Town.

#### **PART 17: ACKNOWLEDGMENT OF UNDERSTANDING AND COMPLIANCE**

- 17.1 Each member of Council and member of local boards shall sign the "Acknowledgement of Understanding and Compliance Form" found at Appendix "B" attached hereto upon beginning of mandate or appointment.

## 17.2 Threat-free atmosphere

- 17.2.1 No member may directly or indirectly, induce, encourage, or aid a member to violate any provision of this Code of conduct.
- 17.2.2 Neither staff nor any member of Council shall take, threaten to take, discharge, discipline, personally attack, harass, intimidate, etc. a person who has reported a violation of this Code of conduct.

## **PART 18: COMPLIANCE WITH THE CODE OF CONDUCT**

### 18.1 Making a complaint

- 18.1.1 Complaints shall be filed on the form attached hereto as Appendix "A" and shall be signed by an identifiable individual or legal person.
- 18.1.2 A refundable fee of \$100 shall be paid upon the filing of a complaint to the Integrity Commissioner in trust.
- 18.1.3 The fee payable under this By-law shall be refunded to the complainant when the Integrity Commissioner files his or her report under this section, unless it was declared frivolous, vexatious, or not made in good faith by the Integrity Commissioner.
- 18.1.4 Complaints shall be filed with the Integrity Commissioner at the address shown in Appendix A who in return shall put the Clerk on notice.

### 18.2 Complaints and inquiry during regular elections

During the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, and ending on voting day in a regular election, as set out in section 5 of that Act:

- 18.2.1 No complaints on a contravention to the Code of conduct by a member may be filed.
- 18.2.2 The Integrity Commissioner shall not report to the Town or local board about whether, in his or her opinion, a member has contravened the Code of conduct.
- 18.2.3 The Town or local board shall not consider whether to impose the penalties referred to 18.10 of this By-law.

If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, he or she shall terminate the inquiry on that day.

He or she shall not commence another inquiry within six weeks after voting day in a

regular election, as set out in section 5 of the *Municipal Elections Act, 1996*, and only if the person or entity who made the request makes a written request to the Commissioner that the inquiry be commenced.

### 18.3 Limitation period

18.3.1 The Integrity Commissioner shall only proceed with an inquiry about a complaint filed less than 180 days after the date when the action, event or the last action, event or a series of events which are the subject matter of the complaint occurred.

18.3.2 Notwithstanding the above section , the Integrity Commissioner may proceed with an inquiry in regard to a complaint that is filed after the expiry of the time limit if the Integrity Commissioner is satisfied that:

18.3.2.1 the delay was incurred in good faith;

18.3.2.2 it is in the public interest to proceed with an inquiry; and

18.3.2.3 no substantial prejudice will result to any person because of the delay.

18.3.3 A complainant is deemed to have known the matters referred to in section 18.3.1 of this By-law at the time the action, event or the last action, event or a series of events have occurred, unless the contrary is proven. The onus of proof lies upon the complainant.

### 18.4 Appointment of Integrity Commissioner

18.4.1 Council shall appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by the Town.

18.4.2 The Integrity Commissioner is appointed by Council for a term of two years with an option to renew for two additional years.

18.4.3 The Integrity Commissioner shall complete any inquiries begun during his or her term notwithstanding the expiry of the term and this By-law shall continue to apply with all the necessary modifications.

18.4.4 If the Integrity Commissioner is unable to complete an inquiry in accordance with section 18.4.3 of this By-law, the Integrity Commissioner next appointed shall complete the inquiry.

18.4.5 The Integrity Commissioner may be removed before the expiry of his or her term of office only for cause. Council shall first receive legal advice from external legal counsel to determine if cause exists.

## 18.5 Duties of Integrity Commissioner

To report conflict of interest

18.5.1 If the Integrity Commissioner becomes aware of a situation where a conflict of interest arises, the Integrity Commissioner shall advise the Clerk and members of Council in writing and delegate in writing his functions and duties to conduct the inquiry, including the exercise of powers under the *Public Inquiries Act* and the duty to report on an inquiry.

The duties of the Integrity Commissioner are:

- 18.5.1 The application of the Code of conduct for members of Council and of local boards.
- 18.5.2 The application of any procedures, rules and policies of the Town and local boards governing the ethical behaviour of members.
- 18.5.3 The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of Council and of local boards.
- 18.5.4 Respond to written requests from members of Council and of local boards for advice respecting their obligations under the Code of conduct applicable to the member.
- 18.5.5 Requests from members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the Town or of the local board, as the case may be, governing the ethical behaviour of members.
- 18.5.6 Requests from members of Council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
- 18.5.7 Provide educational information to members of Council, members of local boards, the Town and the public about the Town's Code of conduct for members of Council and members of local boards and about the *Municipal Conflict of Interest Act*, upon written request of Council or local board.

## 18.6 Delegation of authority

- 18.6.1 If the Integrity Commissioner delegates his or her powers and duties to any person, he or she shall first satisfy himself or herself that the person to whom the duties are to be delegated is fully capable of carrying out these duties.

## 18.7 Conduct of inquiry

- 18.7.1 The Integrity Commissioner shall be independent from both Council and staff.
- 18.7.2 The Integrity Commissioner and any delegates shall be impartial and neutral and shall perform all duties skillfully, competently, independently and in accordance with all applicable law.
- 18.7.3 The Integrity Commissioner has the power to conduct an inquiry if requested by Council, any other member, or a member of the public, about whether there has been a contravention of this Code of conduct or any other Town policy.
- 18.7.4 Complaints shall set out reasonable and probable grounds for the allegation that the member has contravened this Code of conduct and include a supporting document ~~affidavit~~ that sets out the evidence in support of the complaint.
- 18.7.5 Complaints shall be filed with the Integrity Commissioner who shall put the Clerk on notice ~~Clerk who shall forward the matter to the Integrity Commissioner for initial classification.~~ The Integrity Commissioner shall determine if the matter is, on his/her face, a complaint with respect to non-compliance with this Code of conduct and/or not covered by other legislation or policy.
- 18.7.6 If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious, or not made in good faith, or that there are no grounds, or insufficient grounds for an investigation, or if the complainant fails to provide requested additional information or clarification, the Integrity Commissioner shall not conduct an investigation or if it becomes apparent in the course of an investigation, terminate the investigation.
- 18.7.7 If the complainant provides new information after an inquiry is dismissed under section 18.7.6 of this By-law and there is sufficient information to set out an apparent contravention of the Code of conduct, or any other procedures, rules or policies governing the ethical behaviour of members, the Integrity Commissioner shall reopen the inquiry.
- 18.7.8 The Integrity Commissioner shall give the member who is subject to a complaint the opportunity to comment either in person or in writing on the proposed findings and recommended sanction.
- 18.7.9 Complaints will be processed in compliance with the confidentiality requirements of section 223.5 (1) of the *Municipal Act, 2001*, as amended.



- 18.7.10 The Integrity Commissioner is entitled to free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the Town or a local board.
- 18.7.11 The Integrity Commissioner and any delegates acknowledge that the Town is an institution for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). Accordingly, the Integrity Commissioner and any delegates undertake not to disclose information subject to the MFIPPA except as may be necessary in the proper discharge of their functions and duties pursuant to the terms of this By-law and in accordance with the MFIPPA and the *Municipal Act*.
- 18.7.12 The Town and its local board shall give the Integrity Commissioner such information as the Integrity Commissioner believes is necessary for the inquiry of a complaint.
- 18.7.13 The Integrity Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry.
- 18.7.14 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*, R.S.C., 1985, c. C-46, 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 of the inquiry to Council.

## 18.8 Providing advice

- 18.8.1 Members seeking advice under sections 18.5.4, 18.5.5 and 18.5.6 of this By-law from the Integrity Commissioner shall complete the form attached hereto as Appendix "D" and submit it to **the Integrity Commissioner** Clerk.
- 18.8.2 Following a formal request, the Integrity Commissioner shall give his or her advice to the member in writing.
- 18.8.3 Advice provided by the Integrity Commissioner to a member may be released with the member's consent.
- 18.8.4 If a member releases only part of the advice provided by the Integrity Commissioner, the Integrity Commissioner may release part or all of the advice without obtaining the member's consent.

- 18.8.5 The Integrity Commissioner may disclose such information as in the Integrity Commissioner's opinion is necessary:
- 18.8.5.1 for the purposes of a public meeting under subsection 223.4.1 (8) of the *Municipal Act, 2001*;
  - 18.8.5.2 in an application to a judge referred to in subsection 223.4.1 (15) of the *Municipal Act, 2001*; or
  - 18.8.5.3 in the written reasons given by the Commissioner under subsection 223.4.1 (17) of the *Municipal Act, 2001*.

## 18.9 Integrity Commissioner reporting to the Town

- 18.9.1 The Integrity Commissioner shall report annually to Council on the number of complaints filed and activities by way of a summary report to Council, in November of each calendar year.
- 18.9.2 The Clerk shall ensure confidentiality is maintained during and after the Integrity Commissioner's investigation.
- 18.9.3 Records of the Integrity Commissioner must be retained permanently.

### No breach of Code of conduct

- 18.9.4 Where a complaint is unfounded or dismissed, the Integrity Commissioner shall not report to Council, except as part of his or her annual report.

### Report on breach of Code of conduct

- 18.9.5 The Integrity Commissioner shall submit his or her report to Council within 60 days from the filing of a complaint.
- 18.9.6 If the Integrity Commissioner is unable to prepare his or her report within 60 days, he or she shall advise Council of this in writing and give reasons and also an approximate date for the filing of his or her report.
- 18.9.7 The report filed by the Integrity Commissioner shall include:
- 18.9.7.1 the nature of the complaint;
  - 18.9.7.2 if the complaint was filed after the expiry of the time limit under section 18.3.1 of this By-law, the Integrity Commissioner's findings regarding sections 18.3.2 and 18.3.3 of this By-law, which findings shall be in accordance with the civil standard of the balance of probabilities;
  - 18.9.7.3 the evidence gathered from the complaint and from the inquiry;
  - 18.9.7.4 the Integrity Commissioner's findings of fact regarding the complaint, which findings shall be made in accordance with the civil standard of the balance of probabilities;

- 18.9.7.5 the Integrity Commissioner's decision, based on the findings of fact that the member contravened or did not contravene his or her obligations under the Code of conduct, or under any other procedures, rules or policies governing his or her ethical behaviour; and
- 18.9.7.6 where the Integrity Commissioner decides that the member has contravened the Code of conduct, or any other procedures, rules or policies governing the ethical behaviour of members, his or her recommendation on the penalty shall be imposed pursuant to section 18.10 of this By-law.
- 18.9.8 The Integrity Commissioner may make interim reports to Council, where necessary, to address any issues of interference, obstruction, delay or retaliation encountered during the investigation.
- 18.9.9 The Integrity Commissioner shall file a copy of the final report on an investigation with the Clerk, who will then provide a copy of the report to the complainant and the member whose conduct it has addressed.
- 18.9.10 The Clerk shall submit the Integrity Commissioner's report to Council within the next two regular meetings and the Integrity Commissioner shall appear to present his or her report to Council.
- 18.9.11 The Integrity Commissioner reporting shall be made at an open Council meeting.
- 18.9.12 Although the Integrity Commissioner's report must be made public, pursuant to the *Municipal Act, 2001*, some parts of the investigations may be confidential, and will not be made public.

## 18.10 Penalties imposed by the Town

- 18.10.1 Council may impose any of the following penalties on a member if the Integrity Commissioner reports to the Town that, in his or her opinion, the member has breached this Code of Conduct:
  - 18.10.1.1 A reprimand.
  - 18.10.1.2 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.
- 18.10.2 Council may also take the following additional actions:
  - 18.10.2.1 Remove the member from an ad-hoc committee, committee or board.

- 18.10.2.2 Remove as chair of a committee or local bard.
- 18.10.2.3 Require the member to repay or reimburse the compensation received.
- 18.10.2.4 Require the member to return property or reimburse for the value of it.
- 18.10.2.5 Any other fair and reasonable sanction given the circumstances.
- 18.10.2.6 Request a public apology to Council, the complainant, or both.
- 18.10.2.7 All sanctions under this Code of conduct will be fair and in keeping with the severity of the infraction, giving due regard to the member's previous conduct.

**Appendix "A"**  
**By-law N° 13-2019**

**Formal Complaint Form setting out the evidence  
in support of the complaints to the Code of conduct**

**Appendix "B"**  
**By-law N° 13-2019**

**Acknowledgment of Understanding and Compliance Form**  
**Code of conduct**

The undersigned member of Council, a Committee, and/or local board of the Town of Hawkesbury hereby acknowledges receipt of a copy of the Code of Conduct By-law N° 13-2019 and agree to abide by its contents. I also acknowledge this form will be kept on file with the Town of Hawkesbury, and a copy of this signed form was retained by the member him/herself.

Printed Name \_\_\_\_\_

\_\_\_\_\_  
Signature of member

\_\_\_\_\_  
Date

**Appendix "C"**  
**By-law N° xx-2019**

**Disclosure Statement Form**  
**Code of conduct**

Subsection 6.8 of the Code of conduct regarding the acceptance of gifts and benefits requires members of Council and of local board o disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$100 or if the total value of gifts and benefits received from one source in a calendar year exceeds \$100. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk of the Town of Hawkesbury within 30 days of receipt of such gift or benefit, or upon reaching the annual limit. Disclosure Statements as this one are a matter of public record.

Nature of Gift or Benefit received:

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Source of Gift or Benefit:

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Circumstances under which Gift or Benefit was received:

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Estimated Value of Gift or Benefit: \$ \_\_\_\_\_

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Date Gift or Benefit was received: \_\_\_\_\_

Signature of member: \_\_\_\_\_

Date: \_\_\_\_\_

Date on which the Statement is received by the Clerk: \_\_\_\_\_

**Appendix "D"**  
**By-law N° 13-2019**

**Request for Advice Form**

**Code of conduct**

Name of member: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

Advice Requested: (Please provide as many details as possible. Attach additional pages if required.)

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\_\_\_\_\_  
*(Signature of Requestor)*

\_\_\_\_\_  
*(Signature of Integrity Commissioner)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Date Received by Integrity Commissioner)*