



THE CORPORATION OF THE TOWNSHIP OF MULMUR

BY-LAW NO. 52-2022

BEING A BY-LAW TO ADOPT A CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS OF THE TOWNSHIP OF MULMUR

WHEREAS Section 223.2 (1) of the *Municipal Act, 2001*, c. 25, as amended requires that a municipality shall establish codes of conduct for members of the municipality and of its local boards;

AND WHEREAS Section 11 of the *Municipal Act, 2001*, as amended authorizes municipalities to pass by-law regarding accountability and transparency of the municipalities and its operations;

AND WHEREAS Section 5 (3) of the *Municipal Act, 2001*, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by by-law;

AND WHEREAS the Council of the Corporation of the Township of Mulmur deems it expedient and necessary to establish a Code of Conduct for Council, Local Boards and Committees;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MULMUR HEREBY ENACTS AS FOLLOWS:

1. THAT Council does hereby adopt a Code of Conduct attached substantially in the form attached hereto as Schedule "A" and forming part of this by-law
2. THAT By-law 19-2019 being Council's Complaint Protocol is hereby repealed.
3. THAT this by-law shall come into force and effect immediately upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED on this 5th day of OCTOBER 2022.


JANET HORNER, MAYOR


TRACEY ATKINSON, CAO/CLERK

CODE OF CONDUCT

1. Policy Statement

- 1.1 This written **Code of Conduct for Members of Council, Local Boards and Committees** helps to ensure that the *Members of Council, Local Boards and Committees* of the Township of Mulmur share a common basis for acceptable conduct. *The Code* is designed to provide a set of rules on ethical conduct and a supplement to the legislative parameters within which the *Members* must operate. These standards serve to enhance public confidence in the *Township's* decision making and operations and ensure that Mulmur's elected and appointed representatives operate from a base of integrity, impartiality, transparency, courtesy and professionalism.

2. Background

- 2.1 The *Municipal Act* requires each municipality to establish a code of conduct for members of its council and its local boards.
- 2.2 The Township *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of *Members*, including but not limited to:
- *Municipal Act*;
 - *Municipal Conflict of Interest Act*;
 - *Municipal Elections Act, 1996*;
 - *Municipal Freedom of Information and Protection of Privacy Act*;
 - *Provincial Offences Act*;
 - *Human Rights Code*;
 - *Occupational Health and Safety Act*; and
 - *Criminal Code (Canada)*.

3. Scope and Application

- 3.1 This *Code of Conduct* applies to all *Members of Council*, including the Head of Council. This Code also applies to all *Members of Local Boards and Committees* of the *Township*, whether or not a *Member of a Local Board or Committee* is also a *Member of Council*.

4. Definitions

Chief Administrative Officer (CAO) means the Chief Administrative Officer of the Township.

Closed/In-Camera Meeting means any *Meeting of Council, Committee or Local Board* that is closed to the public in accordance with the *Municipal Act*.

Clerk means the Clerk of the Township.

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Code of Conduct (the Code) means this Code of Conduct for Members of Council, Local Boards and Committees, including the appended Complaint and Application Protocol

Committee means a committee of Council, a board other than a *Local Board*, and a task force or working group constituted and appointed by Council, excluding a joint committee or legislated board that has its own policies and procedures.

Confidential Information means:

- a) Information in the possession of, or received in confidence by the *Township*, that it is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*;
- b) A matter that has been debated or discussed at a *Closed/In-Camera Meeting*, or marked as "confidential", unless the matter is subsequently discussed in Open Session, or it is authorized to be released by *Council*;
- c) Information concerning litigation, negotiation, or personnel matters; and
- d) Reports of consultants, draft documents and internal communications, which, if disclosed, may prejudice the reputation of the *Township*, its *Staff*, or its effective operation.

Corporate Resources means means real property, goods and/or services owned, controlled, leased, acquired, or operated by the *Township* including but not limited to *Staff* services, facilities, parks, materials, equipment, monetary funds, technology, *Township* IT system and resources, databases, distribution lists, websites, social media, intellectual property, and supplies.

Council means the *Council* of the *Township*.

Gift, Favour or Hospitality means any gift, commission, hospitality, entertainment, reward, advantage or benefit of any kind.

Integrity Commissioner (Commissioner) means the independent accountability officer appointed under section 223.3 of the *Municipal Act*. The Integrity Commissioner is responsible for providing education and advice to *Members of Council* and conducting investigations.

An investigation means the same as an inquiry under section 223.4 or section 223.4.1 of the *Municipal Act*. In this Code, the words "investigation" and "inquiry" are interchangeable.

Local Board means a "local board" as defined in section 223.1 of the *Municipal Act*.

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MCIA is the *Municipal Conflict of Interest Act*. In this Code, the terms are interchangeable.

Meeting means any regular, special or other meeting of a *Council, Local Board* or *Committee*.

Member means any person duly elected or appointed to serve on *Council* and any member of a *Local Board* or *Committee* of the *Township*.

Municipal Act means the *Municipal Act, 2001*, as amended.

Private Interest is defined in section 10.2.

Procedural By-law means the *Procedural By-law* of the *Township*.

Relative means, in relation to a *Member*:

- a) Spouse, including by not limited to common-law spouses and partners;
- b) Child, parent, sibling, grandchild, grandparent, aunt, uncle, niece or nephew, including all in-law and step relations;
- c) Adult or minor in a relationship where the adult has demonstrated a settled intention to treat the minor as a child of the adult's family, including a former minor if the relationship continues after the minor reaches the age of majority; and
- d) Any person who lives with the *Member* on a permanent basis.

The Staff means all employees and volunteers who perform work for or deliver services on behalf of the *Township*, but excludes *Council, Local Board* and *Committee Members*.

Township means the Corporation of the Township of Mulmur.

5. General Principles

5.1 This Code shall be interpreted according to the following principles:

- a) *Members* hold positions of privilege and therefore shall discharge their duties in a manner that recognizes a fundamental commitment to the wellbeing of the community and integrity of the *Township*.
- b) *Members* shall respect the role of *Council* as set out in the *Municipal Act*.
- c) *Members* shall observe decorum and conduct themselves as outlined in the *Procedural By-law*.
- d) *Members* shall act ethically.
- e) *Members* shall perform their functions with integrity, accountability and transparency.
- f) *Members* shall comply with all applicable legislation, by-laws and *Township* policies.

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- g) *Members* acknowledge that the public has a right to open government and transparent decision-making.
- h) *Members* shall serve the interest of their constituents and the *Township* in a conscientious and diligent manner and shall approach decision-making with an open mind.
- i) *Members* shall support the mission, vision and values of the *Township*.

6. General Rules of Conduct

- 6.1 Every *Member* has the duty and responsibility to treat the public, the *Staff* and other *Members* in a respectful manner, without abuse, bullying, harassment or intimidation.
- 6.2 A *Member* shall ensure that the *Township* work environment is free from discrimination and harassment. A *Member* shall not use indecent, abusive, or insulting words or expressions toward any other *Member*, any member of the *Staff*, or any member of the public. A *Member* shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.
- 6.3 A *Member* shall comply with the Council-Staff Relations Policy. Contravention of that policy is deemed to be a contravention of this Code and may be investigated and enforced as a contravention of the Code.
- 6.4 A *Member* shall refrain from public criticism of other *Members*, the *Staff*, or any other person, that questions professional reputation, competence or credibility.
- 6.5 A *Member* shall not extend preferential treatment to any individual or organization.
- 6.6 A *Member* shall not attempt to influence any outcome or decision involving a *Relative*.
- 6.7 A *Member* shall not allow the prospect of future employment by a person or entity to adversely affect the *Member's* performance of duties to the *Township*.

7. Conduct at Meetings and Public Events

- 7.1 *Members* shall conduct themselves with decorum and professionalism at all *Council*, *Committee*, *Local Board* and other *Meetings* in accordance with the provisions of the applicable *Procedural By-law*, this Code, and other applicable law.
- 7.2 Responsibility for upholding rules of decorum and enforcing the *Procedural By-law* rests with the presiding officer of a *Meeting*, not the *Integrity Commissioner*.

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- 7.3 *Members* may be requested to make public presentations outside of *Council*, *Committee*, *Local Board* and other *Meetings* or to attend public events as representatives of the *Township*. At any such event, every *Member* shall act with dignity and decorum, in a manner befitting a representative of the *Township*.

8. Media and Public Communication

- 8.1 *Members* shall respect the decision-making process of *Council* by accurately communicating the decision reached by majority of *Council*, *Board* or *Committee*. A *Member* has the right to explain reasons for disagreeing with or voting against a decision but must neither impede the *Staff* from implementing the majority decision, nor encourage contravention of a *Township* by-law or policy. Communication shall be governed by the principle that a *Member* has the right to disagree with a decision but must respect that a decision has been made.
- 8.2 Information related to decisions and resolutions of *Council*, *Boards* or *Committees* shall generally be communicated to the community by the *Staff*.
- 8.3 It is not the intent of the *Code of Conduct* to restrict the ability of a *Member* to express a personal opinion on matters of general interest. In such case, the *Member* must make it clear that the comment is being made in the capacity of private citizen, and not as representative of the *Township*.
- 8.4 The use of social media in any form by a *Member* constitutes communication with the public that is governed by this Section **Error! Reference source not found.** *Members* shall identify in any social media communication that the views expressed by the *Member* are the views of that *Member* personally and do not represent the views of the *Township*.
- 8.5 A *Member* shall not take a position, before a court or tribunal or in any other legal proceeding, that is opposed to the position of the *Township* in the proceeding and shall not assist a party that opposes the *Township's* position in the proceeding. Exception: A *Member* may participate personally as a party to a legal proceeding that involves the *Member* but shall not participate in *Township* decision-making concerning the proceeding and shall not use the *Member's* office or the influence of office in connection with the proceeding.

9. Confidentiality and Use of Information

- 9.1 *Members* shall hold in strict confidence all *Confidential Information* acquired as a direct or indirect result of the *Member's* role with the *Township*. *Confidential Information* shall not be disclosed except when required by law, or when authorized by *Council* or the *CAO*.
- 9.2 *Members* shall keep confidential any information:

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- a) Disclosed or discussed at a *Meeting of Council, Committee, Local Board Meeting* or part thereof, that was closed to the public.
 - b) That is circulated to *Members* that is marked confidential. Any closed session agenda package and any documentation marked confidential shall be kept securely until no longer required in the course of business and shall at that time be destroyed by the Member or returned to the CAO for destruction, no later than the end of that term of *Council*.
 - c) That is communicated orally during a *Closed/In-Camera Meeting*.
- 9.3 The obligation to keep information confidential applies even after an individual ceases to be a *Member*, and non-compliance by a former *Member* is subject to investigation and enforcement under this Code as if the former *Member* were a *Member*.
- 9.4 A *Member* shall not use information acquired in the execution of the *Member's* duties that is not available to the general public for the personal or financial gain of the *Member* or a *Relative*, or for any other purpose unrelated to the *Member's* official functions.
- 9.5 A *Member* who receives a request for *Township* information shall refer it to the *Clerk* to be addressed in conformity with the *Municipal Freedom of Information and Protection of Privacy Act*.
- 10. Private Interests**
- 10.1 The *Municipal Conflict of Interest Act* identifies a limited range of interests that *Members* must disclose and on which they may not engage in decision-making. It is the responsibility of each Member, not the *Staff*, to determine whether the Member has an MCIA pecuniary interest in a matter before *Council*, a *Local Board* or a *Committee*. Council has determined that this Code shall apply to additional interests not covered by the MCIA.
- 10.2 Specifically, the following are Private Interests of a Member and are subject to this Code:
- a) a direct or indirect pecuniary interest of a *Relative* of the *Member* (other than a pecuniary interest already covered by the MCIA);
 - b) a direct or indirect pecuniary interest of a close personal friend of the *Member*;
 - c) a non-pecuniary interest of a *Relative* of the *Member*, and
 - d) a non-pecuniary interest of:
 - i. a body of which the *Member* is a member;
 - ii. the *Member's* employer;
 - iii. an entity that contracts for the *Member's* services;
 - iv. an entity on whose board (or governing committee) the *Member* sits.

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- 10.3 Under section 10.2, an indirect pecuniary interest is one that would be an indirect interest under section 2 of the MCIA if section 2 of that Act applied to the *Relative* or close personal friend.
- 10.4 A *Member* shall not borrow money from a person that regularly does business with the *Township* unless such person is an institution or company whose shares are publicly traded and that is regularly in the business of lending money.
- 10.5 A *Member* shall not act as a paid agent before *Council*, a *Committee*, a *Local Board*, or any other agency or body of the *Township*.
- 10.6 A *Member* is disqualified from voting on a matter in which the *Member* has a *Private Interest*.
- 10.7 Each *Member* shall:
- a) Publicly disclose every *Private Interest* in a matter before *Council*, a *Local Board* or a *Committee*;
 - b) Neither participate in discussions concerning, nor vote on, a matter before *Council*, a *Local Board* or a *Committee* in which the *Member* has a *Private Interest*;
 - c) Not seek not to influence the vote, a *Staff* recommendation, or anyone's decision under delegated authority, on a matter in which the *Member* has a *Private Interest*; and
 - d) Leave that portion of a *Closed/In-Camera Meeting* in which a matter in which the *Member* has a *Private Interest* is considered.
- 10.8 In the case of a *Private Interest* under the Code and in the case of a pecuniary interest under the MCIA, a *Member* shall not, once a Code, *Private Interest* or an MCIA pecuniary interest in a matter is identified, have any involvement in the matter including:
- a) participating in discussions or meetings (whether or not they are *Meetings* as defined in this Code) about the matter;
 - b) facilitating another person's meeting with the *Staff* or with another *Member* about the matter, or making an introduction for that purpose; and
 - c) providing advice to any person that would materially advance the matter.

11. Influence on the Staff

- 11.1 The purpose of this Section 11 is to ensure a positive working relationship between *Members* and *Staff* through a mutual respect for each other's roles and responsibilities.
- 11.2 Respecting the fact that the *Staff* work for the *Township* and are charged with making recommendations and advice based on political neutrality that reflects

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their professional expertise and objectivity, a *Member* shall not attempt by undue influence to compromise a *Staff* member's neutrality or objectivity.

11.3 Acknowledging that only *Council* as a whole, in the duly called *Meeting* with a quorum present, has the capacity to direct the *Staff*, a *Member* shall not give direction to any *Staff* member.

11.4 Recognizing that the CAO is the only *Staff* person directly reporting to *Council*, a *Member* shall direct any concerns concerning the *Staff* through the CAO.

11.5 A *Member* shall not:

- a) Maliciously or falsely injure the professional or ethical reputation of a *Staff* member;
- b) Compel a *Staff* member to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or
- c) Use, or attempt to use, the *Member's* authority or influence to intimidate, threaten, coerce, command, or influence any *Staff* member or to interfere with *Staff* duties.

11.6 A *Member* shall not interfere or attempt to interference in the independence of law enforcement, including by-law enforcement. A *Member* may use the *Council* and *Committee* process to address general, not case-specific, operational issues of law enforcement, and to pursue changes to law or policy.

12. Use of Corporate Resources

12.1 No *Member* shall use or permit the use of *Corporate Resources* other than for purposes connected with the discharge of municipal duties or associated community activities of which *Council* has approved.

12.2 The following uses of *Corporate Resources* are permitted:

- a) reasonable and incidental personal use of equipment such as computers, cell phone, tablets, printers, scanner, copiers, email, file storage, or any other equipment or technology owned by the *Township* where no additional costs relating to such use are incurred and the use is of limited duration and frequency; and
- b) use of *Township* property and facilities universally known to be available to other residents upon request and on equal terms.

12.3 *Members* shall comply with any other Township policies governing the use of *Corporate Resources* including but not limited to the Corporate Recourse Election Policy. Each such policy shall be administered and enforced as provided in the policy, and not by the Integrity Commissioner.

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12.4 A *Member* shall not, on behalf of the *Member*, a *Relative*, or a close friend, seek or gain financial or personal benefit from the use of municipal intellectual property, computer programs, technological innovations, or other patentable items, while a *Member* or thereafter. All such property remains the exclusive property of the *Township*.

13. Gifts, Favours and Hospitality

13.1 An objective of this Section 13 is to ensure *Members* make, and are perceived to make, *Council* decisions based on impartial and objective assessment of each situation, free from influence of *Gifts, Favours and Hospitality*.

13.2 A *Gift, Favour or Hospitality* offered or provided to a *Relative*, friend or associate (business or otherwise) of a *Member*, for the benefit of the *Member*, is deemed to be offered or provided to the *Member*.

13.3 A *Gift, Favour or Hospitality* does not include:

- a) A token, souvenir, mementoe or hospitality received in recognition for service on a *Committee* or *Local Board*, for speaking at an event or for representing the *Township* at an event;
- b) A political contribution that is offered, accepted, reported, and within limits, in accordance with applicable law;
- c) Food and beverage at a meeting, banquet, reception, ceremony or similar event;
- d) Food, lodging, transportation, or entertainment provided by another level of government, by another local government, or by a local government board or commission;
- e) A stipend from a board or commission on which the *Member* serves as a result of an appointment by *Council*;
- f) Reimbursement of reasonable expenses incurred, and an honorarium received, in the performance of activities connected with municipal associations;
- g) A gifts of a nominal value that is received as an incident of protocol or social obligation that normally and reasonable accompanies the responsibility of the office; or
- h) A service provided without compensation by a person volunteering time.

13.4 Any stipend paid to a *Member* is intended to fully remunerate the *Member* for service to the *Township*.

13.5 A *Member* is prohibited from soliciting, accepting, offering or agreeing to accept any *Gift, Favour or Hospitality*, from a person, group or organization having dealings with the *Township*, that is connected directly or indirectly with the performance of duties of office or that could be reasonable construed as being given in anticipation of future, or recognition of past, special consideration by the *Member*.

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- 13.6 Where it is not possible to decline a prohibited *Gift, Favour or Hospitality*, the *Member* shall report it to the CAO. It shall become the property of the *Township* and the CAO may determine that it be retained by the *Township* or be disposed for charitable purposes in the CAO's sole discretion.

14. Role of the Integrity Commissioner

- 14.1 The *Integrity Commissioner* shall be appointed by By-law and operate independently of *Council*. The authority, powers, responsibilities and functions of the Integrity Commissioner are set out in Part V.1 of the *Municipal Act*, and references to them in this Code are for convenience only. Should a reference in the Code be inconsistent with the Act, it is understood that the Act governs.
- 14.2 The *Municipal Act* provides that the *Integrity Commissioner* may delegate in writing to any person, other than a *Member of Council*, any of the *Integrity Commissioner's* powers and duties under Part V.1 of the Act. Upon exercising the discretion to make a delegation, the *Integrity Commissioner* shall disclose to the *Clerk* the delegation, its duration, and the basis of the *Integrity Commissioner's* assessment that the delegate is qualified and capable.
- 14.3 As provided by the *Municipal Act*, 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, other than the *Municipal Conflict of Interest Act*, or of the *Criminal Code* (Canada), the 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*.
- 14.4 The *Integrity Commissioner* shall prepare and submit to *Council* an Annual Report that shall include at a minimum:
- a) A break-down of costs incurred for the following categories of work performed (advice/investigations/dispute resolution/training);
 - b) A summary of the nature of requests for advice received and advice given, and without disclosing confidential information that could identify a person concerned;
 - c) A summary of inquiries not conducted, terminated, or resolved; and
 - d) Any recommendations for improvements to this Code or processes or any procedure, rule or policy of the *Township* governing the ethical behavior of the *Member*.

15. Requests for Advice

- 15.1 The *Municipal Act* provides that a *Member* may, in writing, request written advice from the *Integrity Commissioner* with respect to:
- a) The obligations of the *Member* under the *Municipal Conflict of Interest Act*;

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- b) The obligations of the *Member* under this Code; and
 - c) The obligations of the *Member* under a procedure, rule or policy of the *Township* governing the ethical behavior of the *Member*.
- 15.2 Without disclosing its nature, a *Member* shall promptly inform the *Clerk* of the fact that a request has been made to the *Integrity Commissioner*.
- 15.3 A *Member* may only request from the *Integrity Commissioner* advice about the obligations of the requesting *Member*, and not about the obligations of another *Member*.
- 15.4 *Members* should be mindful of the cost to the *Township* to obtain the advice of the *Integrity Commissioner* and should exercise their *Municipal Act* right to do so in a responsible manner.
- 15.5 *Council* and *Members* should understand that the *Integrity Commissioner* is an accountability officer of the *Township* who operates independently, and that the giving of such advice does not create a solicitor-client relationship between the *Integrity Commissioner* and *Members*.
- 15.6 The *Municipal Act* prohibits the *Integrity Commissioner* from divulging a request or the advice given in response to a request, except with the *Member's* consent or in the narrow circumstances identified in the Act. The *Integrity Commissioner* shall, however, include in the appropriate invoice the name of a *Member* who made a request and the amount of time spent responding, without indicating the nature of the request.
- 15.7 *Council* may take into account the volume and pattern of expenditures on requests for advice in asking the *Integrity Commissioner* to provide education to *Council* or individual *Members* about *Members'* obligations under this Code and the *Municipal Conflict of Interest Act*.
- 16. Enforcement, Penalties and Remedial Measures**
 - 16.1 Every *Member* shall comply with this Code. Any breach of this Code may be investigated by the *Integrity Commissioner* in accordance with this Code, and *Council* shall determine whether to impose a penalty on a *Member* found to have breached any provision of this Code or to adopt a remedial measure.
 - 16.2 The *Municipal Act* authorizes *Council* to impose one or more of the penalties listed below, if so desired, on a *Member* that has contravened this *Code of Conduct*:
 - a) A reprimand; or
 - b) Suspension of the remuneration paid to the *Member* in respect to the *Member's* services as a *Member of Council, Local Board or Committee*, as the case may be, for a period of up to 90 days.

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16.3 The *Integrity Commissioner* may also recommend that *Council* adopt one or more of the following remedial measures:

- a) Request for a written and/or verbal public apology;
- b) Return of property or reimbursement of its value or of monies spent;
- c) Removal from membership on any *Committee* or *Local Board*;
- d) Removal as chair of a *Committee* or *Local Board*; and
- e) Other remedial measures that the *Integrity Commissioner* believes are reasonably necessary to carry out the objectives of this Code.

17. No Reprisal or Obstruction

17.1 Every *Member* must respect the integrity of this *Code of Conduct* and inquiries and investigations conducted under it and shall co-operate in every way possible in securing compliance with its application and enforcement.

17.2 Any reprisal or threat of reprisal against a complainant or any other person for providing relevant information to the *Integrity Commissioner* or any other person is prohibited.

17.3 It is a violation of this *Code of Conduct* to obstruct the *Integrity Commissioner* in the carrying out of any of the *Integrity Commissioner's* responsibilities, including without limitation destroying relevant communications.

17.4 In response to a complaint or on the *Integrity Commissioner's* own initiative, after giving the *Member* an opportunity to be heard, the *Integrity Commissioner* may report to *Council* a finding of a contravention of this Section 17.

18. Complaint and Application Protocol

18.1 Any person who has reasonable grounds to believe that a *Member* has breached this Code may proceed with a complaint and request an investigation.

18.2 A complaint must be submitted within 90 days after the alleged violation occurred or the alleged violation came to the attention of the complainant. No complaint may be filed under any circumstances where the alleged violation occurred more than 6 months prior to the complaint being filed.

18.3 The Complaint and Application Protocol forms part of this Code as Appendix One.

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APPENDIX ONE

COMPLAINT AND APPLICATION PROTOCOL

1. Application

- 1.1 Code of Conduct: This Protocol applies to inquiries and requests for inquiries under section 223.4 of the *Municipal Act*.
- 1.2 Municipal Conflict of Interest Act: Section 223.4.1 of the *Municipal Act* governs applications for inquiries into whether *Members* have contravened the MCIA. For convenience, this Protocol summarizes the provisions of that section.

2. Responsibilities

- 2.1 The *Municipal Act* provides that, among other functions, the *Integrity Commissioner* shall be responsible for:
 - a) Application of *the Code*, as well as any other ethical rules, procedures and policies for *Members*;
 - b) Application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* (MCIA) for *Members*.

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3. Complaint Procedure

- 3.1 All complaints (requests for inquiries) of alleged breaches of *the Code* shall be submitted to the *Clerk* on the form provided in Appendix Two. The *Clerk* shall forward each complaint form to the *Integrity Commissioner*.
- 3.2 Every complaint (request for inquiry) must clearly include:
 - a) The *Member* to whom the complaint relates;
 - b) The nature of the alleged contravention;
 - c) The specific provision(s) of *the Code* allegedly contravened;
 - d) Names of any witnesses to the alleged contravention; and
 - e) Written material in support of the alleged contravention.

4. Informal Complaints

- 4.1 Any individual who believes behaviour or activity by a *Member* contravenes *the Code* may address the behaviour or activity by doing one or more of the following:
 - a) Inform the *Member* that the behaviour or activity appears to contravene *the Code*.
 - b) Encourage the *Member* to acknowledge and to agree to stop the prohibited

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- behaviour or activity and to avoid future occurrences of it.
- c) Where the *Member* agrees to cease the behaviour, confirm in writing to the *Member* that the response is satisfactory, or, if applicable, that the response is not satisfactory.
 - d) Document the incidents including dates, times, locations, other individuals present, and any other relevant information.
 - e) Request the *Integrity Commissioner* to assist in informal discussion with the *Member* about the alleged behaviour or activity in an attempt to resolve the issue.
 - f) Consider the need to pursue the matter in accordance with the formal complaint procedure, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
- 4.2 Individuals are encouraged, but not required, to pursue the informal complaint procedure as the first means of remedying behaviour or an activity believed to violate *the Code*.
- 4.3 With the consent of both the complaining individual and the *Member*, the *Integrity Commissioner* may participate in any informal process. The parties involved are encouraged to take advantage of the *Integrity Commissioner's* potential role as a mediator of issues relating to an informal complaint. The informal process is not a precondition to pursuing the formal complaint procedure.
- 5. Integrity Commissioner's Classification and Decision to Investigate**
- 5.1 Upon receiving the complaint, the *Integrity Commissioner* shall conduct an initial classification to determine whether the complaint is within the *Commissioner's* jurisdiction and whether the *Commissioner* should commence an investigation. The *Integrity Commissioner* may request additional information from the complainant prior to making an assessment.
- 5.2 The *Integrity Commissioner* may not assist in drafting the content of a complaint, but the *Commissioner* may:
- a) invite a Complainant to clarify, or
 - b) permit a Complainant to amend or resubmit any complaint, including a complaint that does not meet the requirements of this Protocol.
- 5.3 The complaint is deemed to be received by the *Commissioner* when it is clarified, amended or resubmitted, as the case may be.
- 5.4 Under the *Municipal Act*, the decision to commence inquiry lies in the *Integrity Commissioner's* discretion.
- 5.5 A complaint, or part of it, lies outside the *Commissioner's* jurisdiction if the subject matter of the complaint, or part, relates more properly to another law or

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to other complaint process or dispute resolution procedure.

- 5.6 The *Integrity Commissioner* shall only commence an investigation of a complaint, or part of it, that on its face contains allegations that if substantiated would constitute a breach of one or more provisions of *the Code*, and then only in relation to such provision(s).
- 5.7 The *Commissioner* has the discretion to decline to commence an investigation if on its face the complaint appears to be frivolous, vexatious or not made in good faith, and subsequently the *Commissioner* may terminate an investigation if at any time the *Commissioner* forms the opinion that the complaint is frivolous or vexatious or that the Complainant is not acting in good faith.
- 5.8 If the Complainant is a *Member*, where the *Integrity Commissioner* declines to commence or terminates an investigation on the ground that the complaint is frivolous or vexatious or that the Complainant is not acting in good faith, the *Integrity Commissioner* may report that fact to *Council* and name the *Member*.
- 5.9 If on its face the complaint, or part, relates more properly to another law or to other complaint process or dispute resolution procedure then the *Integrity Commissioner* shall respond to the Complainant in writing as follows:
- a) If the allegation might relate to an offence under the *Criminal Code* or another criminal statute then the Complainant shall be informed that such allegation, if the Complainant wishes to pursue it, should be brought to the attention of the police.
 - b) If a complaint or part is more appropriately handled under the *Municipal Freedom of Information and Protection of Privacy Act* then the Complainant shall be informed that the matter falls under the responsibility of the *Clerk* and shall be given the *Clerk's* contact information.
 - c) If the complaint or part seems to fall under another *Township* policy then the complainant shall be informed how to pursue the matter under the other policy.
 - d) If for any other reason the complaint or part is not within the jurisdiction of the *Integrity Commissioner*, then the Complainant shall be so informed and given such additional reasons and/or referred to such agencies or authorities as the *Integrity Commissioner* considers appropriate.
 - e) If the complaint or part relates to a matter that is already subject to another process, including but not limited to a court proceeding under a human rights complaint, an arbitration hearing, or another court or tribunal proceeding, then the *Integrity Commissioner* may, in the *Commissioner's* sole discretion, suspend any investigation pending the result of the other process.

6. Settlement, Withdrawal and Other Opportunities for Resolution

- 6.1 Following receipt and review of a formal complaint, or at any time during an

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investigation where the *Integrity Commissioner* believes that an opportunity to resolve the matter may be successfully pursued, and both the Complainant and the Respondent agree, efforts may be pursued to achieve an informal resolution at the discretion of the *Integrity Commissioner*.

- 6.2 If a complaint is withdrawn, settled or informally resolved, ordinarily the *Commissioner* will not report to *Council* except as part of the annual report described in the Code.
- 6.3 When the Integrity Commissioner is of the opinion that it is reasonable to do so, the Commissioner may exercise the discretion to report to *Council* on a complaint that has been withdrawn, settled or informally resolved. In exercising discretion the Commissioner may consider factors that include:
 - a) the terms of any settlement agreement;
 - b) whether a report would bring closure to public allegations against a Respondent;
 - c) the parties' views on reporting; and
 - d) whether reporting would be in the public interest.

7. Investigation (Inquiry)

- 7.1 Except where the *Integrity Commissioner* exercises powers under sections 33 and 34 of the *Public Inquiries Act*, the investigation process shall be as follows:
 - a) Within 3 business days after receiving the complaint, the *Integrity Commissioner* shall decide whether to investigate the complaint or part of it.
 - b) The *Integrity Commissioner* shall inform the *Clerk* that an investigation is being commenced, and provide the Commissioner's file number for the investigation.
 - c) The *Integrity Commissioner* shall, the same day, issue to the Respondent and the Complainant a notice that identifies the allegation(s) and Code section(s) being considered in the inquiry and includes a copy of the complaint and all supporting documentation. The notice shall invite the Respondent to provide a written response to the allegation(s) within 7 business days.
 - i. To protect the right of a full and fair opportunity to respond, the Respondent shall be given the entire complaint, including the Complainant's name but not the contact information of a Complainant who is not a *Member*.
 - ii. In exceptional circumstances and only where the *Integrity Commissioner* is satisfied that a fear of intimidation or reprisal is well-founded, the *Integrity Commissioner* may redact information that would identify the Complainant or a witness, provided that the Respondent receives sufficient disclosure to understand the allegation(s) and to receive a full and fair opportunity to respond.

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Where the Complainant is a *Member of Council* the Complainant's identifying information will not be redacted.

- d) Within 3 business days after receiving the Respondent's response, the *Integrity Commissioner* shall send the response to the Complainant with an invitation to reply within 7 business days.
- e) Within 3 business days after receiving the Complainant's reply, the *Integrity Commissioner* shall send the reply to the Respondent with a final chance to respond within 7 business days.
- f) After reviewing the complaint, the responses and replies, the *Commissioner* may speak to anyone, access and examine any other documents or electronic materials, and may enter any *Township* work location relevant to the complaint for the purpose of investigation and potential resolution.
- g) Within 45 calendar days after the complaint is received, or such longer period as the *Commissioner* deems necessary, the *Commissioner* shall draft a report containing the findings of the investigation, including draft conclusions about whether the Respondent contravened *the Code* and, where applicable, a draft recommended penalty, and submit it to the Respondent for representations and comments within 7 business days. If the *Commissioner* has not made a finding that the Respondent contravened the Code then this step (sharing a draft report with the Respondent) shall be omitted.
- h) Within 7 business days after receiving the representations and comments of the Respondent, and taking them into account, the *Integrity Commissioner* shall finalize the report and deliver it to the:
 - i. *Clerk*, for delivery to *Council*.
 - ii. Complainant.
 - iii. Respondent.

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

7.3 The *Commissioner* has the discretion to extend any of the time frames and deadlines in this Protocol

8. Timing of Complaints in Relation to Municipal Elections

8.1 For convenience, this Section 8 of the Protocol summarizes requirements of the *Municipal Act*. In the case of any inconsistency, the Act governs.

8.2 A complaint must be investigated, and a report submitted to *Council* on or before Nomination Day in the year of a municipal election.

8.3 Investigations of complaints that are not completed as of Nomination Day in an election year shall be terminated on Nomination Day.

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- 8.4 The complainant, or the *Member* or former *Member* who was the subject of the complaint terminated under this section may ask to re-commence the complaint within 6 weeks of Election Day by submitting a written request to the *Integrity Commissioner*, who may, provided the request is received within 6 weeks from Election Day, recommence the investigation. If a request is not made within 6 weeks of Election Day, then the investigation will shall not be re-commenced.
- 8.5 In addition, on or after Nomination Day until the end of Election Day in the year of a municipal election:
- a) no complaint shall be filed;
 - b) the *Integrity Commissioner* shall not report to the Municipality about an ongoing investigation; and
 - c) the Municipality shall not consider whether to impose any penalty on a *Member* subsequent to an investigation.

9. Report and Recommendation(s)

- 9.1 After completing the investigation, the *Integrity Commissioner* shall prepare a report which shall make findings of fact and conclusions as to whether a breach of this *Code* occurred. If the report finds a contravention of the *Code* it shall make recommendations to *Council*.
- 9.2 The *Integrity Commissioner* shall forward the final report to the *Clerk* of the *Township*, who shall include it in the next regular agenda of *Council*.
- 9.3 The Respondent shall have the right of reply when the report is considered by *Council*.
- 9.4 If the report finds a contravention of the *Code*, then subsection 5(2.1) of the *MCI*A governs the procedure to be followed when the matter under consideration is whether to suspend the remuneration paid to the *Member*. According to that subsection, the *Member* may take part in the discussion of the matter, including making submissions to *Council* or the *Local Board*, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting. However, the *Member* is not permitted to vote on any question in respect of the matter. In the case of a *Meeting* that is not open to the public, the *Member* may attend the *Meeting* or part of the *Meeting* during which the matter is under consideration.
- 9.5 Unless the *Integrity Commissioner* has reported that, in the *Commissioner's* opinion, the *Member* has contravened this *Code*, the prospect of suspension of remuneration does not arise.
- 9.6 Where the *Integrity Commissioner* determines that there has been no

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contravention of this *Code* or that a contravention occurred although the *Member* took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the *Integrity Commissioner* may so state in the report and may make appropriate recommendations.

- 9.7 Where a *Member* has sought and followed advice from the *Integrity Commissioner* and is subsequently the subject of a complaint, the *Integrity Commissioner* may refer to the earlier advice and, provided that the facts as set out in the earlier advice are still applicable, determine in a summary manner that there has been no breach of this *Code*.

APPLICATIONS ALLEGING BREACHES OF THE MCIA

10. Applications Related to the *Municipal Conflict of Interest Act*

- 10.1 Inquiries and applications for inquiries into alleged MCIA contraventions are governed by section 233.4.1 of the *Municipal Act* and not by *Township* policy or by-law. For convenience, that section is summarized below. In the event of an inconsistency, the *Municipal Act* governs.
- 10.2 An elector as defined in the MCIA, or a person demonstrably acting in the public interest, may apply in writing to the *Integrity Commissioner* for an investigation concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a *Member*.
- 10.3 The written application shall be made to the Integrity Commissioner. The application shall set out the reasons for believing that the Member has contravened section 5, 5.1 or 5.2 of the MCIA. The application shall also include a statutory declaration (similar to a sworn statement, and made before a commissioner for taking affidavits) attesting to the fact that the Applicant became aware of the contravention not more than six weeks before the date of the application or, in the case where an applicant became aware of the alleged contravention during the period of time described in section 10.6 of this Protocol, a statutory declaration attesting to the fact that the Applicant became aware of the alleged contravention during that period of time.
- 10.4 No application may be submitted more than 6 weeks after the Applicant became aware of the alleged contravention.
- 10.5 An application for an investigation in an election year may only be submitted prior to Nomination Day or after Election Day.
- 10.6 In the event that an Applicant becomes aware of the alleged contravention within the period of time starting 6 weeks before Nomination Day in an election year, the complainant may apply to the *Integrity Commissioner* within 6 weeks after the day after Election Day.

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- 10.7 Where an investigation has not been completed before Nomination Day in an election year, the *Integrity Commissioner* shall terminate the investigation on that day. Another investigation in respect of the matter shall not be commenced unless the Applicant, or the *Member* whose conduct is at issue, applies in writing to the *Integrity Commissioner*, within six (6) weeks after voting day in a regular election, for the inquiry to be carried out.
- 10.8 The *Integrity Commissioner* shall complete the investigation within 180 days of receipt of the Application, unless the investigation is terminated due to the timing of a municipal election.

11. Decision and Reasons

- 11.1 The *Municipal Act* provides that:

- a) Upon completion of the inquiry, the *Commissioner* may, if the *Commissioner* considers it appropriate, apply to a judge under section 8 of the MCIA for a determination as to whether the *Member* has contravened the MCIA.
- b) The *Commissioner* shall advise the Applicant if the *Commissioner* will not be making an application to a judge.
- c) After deciding whether or not to apply to a judge, the *Commissioner* shall publish written reasons for the decision.
- d) The *Commissioner's* costs of applying to a judge shall be paid by the *Township* or a *Local Board*, depending on whether the *Member* contravened the MCIA as a *Member of Council* or as a *Member of a Local Board*.

- 11.2 At the same time as the *Integrity Commissioner* publishes written reasons for the decision, the *Integrity Commissioner* shall provide a copy to the *Clerk* who shall place them on the agenda of the next regular *Meeting of Council*.

- 11.3 Under the *Municipal Act*, the decision of the *Commissioner* to apply to a judge is not subject to *Council* approval. The Act does not, however, prevent the *Commissioner* from briefing *Council* on anticipated costs and receiving *Council's* views on the pending application. At the first reasonable opportunity after the publication of written reasons for the decision, the *Integrity Commissioner* shall appear personally to present to *Council* a for-information report on costs of the application and to receive such input as *Council* may wish to provide, it being understood that the *Integrity Commissioner* is not bound by the views of *Council* and maintains carriage of the application to a judge in the *Commissioner's* sole discretion.

PROVISIONS APPLICABLE TO BOTH COMPLAINTS AND APPLICATIONS

12. Confidentiality and Public Disclosure

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- 12.1 To ensure that a complaint or application is investigated (or settled or informally resolved) in a fair manner that respects the rights of the Complainant or Applicant, the Respondent and witnesses, until the final complaint report is delivered to *Council* or until reasons for the decision on an application are published, as the case may be, the parties shall maintain the confidentiality of the complaint or application process, including but not limited to the confidentiality of the complaint or application, responses, replies and other communications from the Complainant or Applicant, the Respondent and the *Integrity Commissioner*.
- 12.2 This Protocol forms part of the Code and, consequently, a breach of the Protocol is a breach of the Code. In response to a complaint or on the *Integrity Commissioner's* own initiative, after giving the *Member* an opportunity to be heard, the *Integrity Commissioner* may report to *Council* a finding that a *Member* has contravened section 12.1, above.
- 12.3 The *Integrity Commissioner* may also take into account a Complainant's contravention of section 12.1 in exercising the discretion to terminate an inquiry into a complaint under the Code.
- 12.4 The *Municipal Act* requires that the *Integrity Commissioner* and every person acting under the instructions of the *Commissioner* shall preserve confidentiality with respect to all matters that come to the *Commissioner's* knowledge in the course of the *Commissioner's* duties, except as required by law in accordance with Part V.1 of the *Municipal Act*.
- 12.5 Subject to the *Municipal Act*, the *Integrity Commissioner* shall retain all records related to the complaints, applications, and investigations.
- 12.6 All reports from the *Integrity Commissioner* to *Council*, as well as any reasons for decision following an application alleging contravention of the MCIA, shall be made available to the public on the *Township Website* on a single Web page that is easily accessible.



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APPENDIX TWO

CODE OF CONDUCT COMPLAINT FORM

Name: _____
Address: _____
Phone: _____
Email: _____

I, _____, believe that the following Member
_____, of the Township of Mulmur Council or
Local Board, has contravened with the Township of Mulmur Code of Conduct for
Council and Local Boards.

Breached Section(s) of the Code of Conduct: _____

Details:

Please include as much information as possible, including date(s), time(s), location(s) of conduct, supporting documentation, details and names of all persons involved, name(s) of witness(es). If you require more space, please attach to this complaint. If you wish to include attachments to support this complaint, please identify them and attach them to this complaint.

I, _____, believe that the facts as set out in this complaint are true to the best of my knowledge and belief and do hereby request the Integrity Commissioner for the Township of Mulmur to conduct an inquiry pursuant to the Township's Code of Conduct.

Signature

Date