



## **The Corporation of the County of Essex**

### **By-Law Number 49-2016**

#### **A By-law to Establish a Code of Conduct for Members of Council, Local Boards and Committee Members.**

**Whereas** Section 11 of the Municipal Act 2001, S.O. 2001, c. 25, as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations and of its local boards and their operations;

**And Whereas** section 223.2 of the Municipal Act 2001, S.O. 2001, c. 25, authorizes the municipality to establish Codes of Conduct for members of council of the municipality and of local boards of the municipality;

**And Whereas** an Integrity Commissioner was appointed by By-Law No. 45-2016 for the purposes of investigating alleged transgressions or breach of the Code of Conduct adopted by Council;

**And Whereas** a review of the current Code of Conduct enacted by By-Law No. 16-2008 was undertaken to establish a Code of Conduct that establishes a Code of Conduct Complaint Process;

**And Whereas** Council deems it necessary to repeal By-Law No. 16-2008 to enact the Code of Conduct for Members of Council, Local Boards and Committee Members;

**Now Therefore** the Council of the Corporation of the County of Essex hereby enacts as follows:

- 1) That the Council of the Corporation of the County of Essex does hereby adopt the Code of Conduct, attached hereto as Schedule A, forming part of this by-law.
- 2) That the Integrity Commissioner and/or Clerk be authorized to make minor amendments to Schedule A as may be appropriate from time to time.

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- 3) That By-law No. 16-2008 be hereby repealed.
- 4) That this By-law shall come into full force and effect after the final passing.

**Read a first, second and third time and Finally Passed this 19 day of October, 2016.**



Tom Bain, Warden



Mary S. Brennan, Clerk

**Clerk's Certificate**

I, Mary S. Brennan, Clerk of the Corporation of the County of Essex, do hereby certify that the foregoing is a true and correct copy of **By-law Number 49-2016** passed by the Council of the said Corporation on the **19**, day of **October 2016**.

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Mary S. Brennan, Clerk  
Corporation of the County of Essex



## **Essex County Council Code of Conduct**

### **Council, Local Boards and Committee Members**

<b>Approved by:</b>	<a href="#">Click here to enter text.</a>
<b>Date Approved:</b>	<a href="#">Click here to enter a date.</a>
<b>Last Revision Date:</b>	2008-02-08
<b>Replaces:</b>	By-law #16-2008

### **1.0 Preamble**

A written Code of Conduct helps to ensure that the members of Council share a common basis for acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which members must operate. These standards should serve to enhance public confidence that the County's elected representatives operate from a base of integrity, justice and courtesy.

### **2.0 Scope**

This Code of Conduct applies to all members of Essex County Council.

This Code of Conduct also applies, subject to any necessary modification, to Council appointments to local boards as defined in section 1(1) of the Municipal Act, and to all other appointments to County committees, agencies, boards and commissions.

### **3.0 Purpose**

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

- Members to whom this Code of Conduct applies shall serve in a conscientious and diligent manner;
- Members shall be committed to performing their functions with integrity without using the influence of their office;
- Members shall avoid all conflicts of interest;
- Members are expected to perform their duties of office and to arrange their private affairs in a manner that promotes public confidence and will bear close legal and public scrutiny;
- Members are responsible for making honest statements and shall not make any statement when they know that statement is

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- false, or with the intent to mislead other Members or the public; and,
- Members shall serve the public interest by upholding the laws and policies established by the Federal Parliament, Ontario Legislature, and the laws and policies adopted by Essex County Council.

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

### 4.0 Definitions

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

**"Code of Conduct"** means the "County of Essex Code of Conduct for Members of Council, Local Boards and other to County Council appointed Committees, Agencies, Boards and Commissions".

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

**"complaint"** means a purported contravention of the Code of Conduct.

**"Council"** means Essex County Council.

**"County"** means The Corporation of the County of Essex.

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

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



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

### **5.0 Statutory Provisions Regulating Conduct**

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

- Municipal Act, 2001
- Municipal Conflict of Interest Act
- Municipal Elections Act
- Municipal Freedom of Information and Protection of Privacy Act
- Provincial Offences Act
- Public Inquiry Act
- Occupational Health and Safety Act
- Ontario Human Rights Code
- Criminal Code
- By-laws and policies of Council as adopted and amended from time to time, including but not limited to the procedural by-law.

A Council member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the Criminal Code of Canada or being found to have failed to comply with the Municipal Conflict of Interest Act, whether or not the conduct in question involves contravention of this policy.

In the case of any inconsistency between this policy and Federal or Provincial statute or regulation, the statute or regulation shall prevail.

### **6.0 Conduct at Meetings**

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

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### **7.0 Improper Use of Influence**

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

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

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

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

### **8.0 Discreditable Conduct**

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

The Ontario Human Rights Code applies, as does the County's Employee Harassment in the Workplace Policy #92-001 and Workplace Violence Policy #99-001 which recognize the right of every employee to work in an environment that is free from discrimination and harassment, by the employer, agent of the employer, another employee, or any other person with whom s/he comes into contact in the normal performance of his/her duties.

Members shall abide by the provisions of the Ontario Human Rights Code, and, in doing so, shall treat every person, including other Members,

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employees, and individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.

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

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

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

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

### **9.0 Conduct Respecting Staff**

Members shall acknowledge that only Council or the applicable Local Board as a whole has the authority to approve budget, policy, processes and other such matters unless such authority has been delegated. Members shall direct requests outside of Council approved budget, process or policy to the Chief Administrative Officer.

Under the direction of the Chief Administrative Officer, staff serve the Council as a whole, and the combined interests of all Members as evidenced



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through the decisions of Council. Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council or the Local Board. Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all Members shall show respect for the professional capacities of staff.

No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. No Member shall use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity. Members and staff shall be respectful of each other's time and arrange appropriate opportunities to discuss matters before formal meetings, where possible, which can be included and/or further discussed at the meeting.

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

### **10.0 Communications and Media Relations**

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

- a) there is respect for the decision making processes of Council;
- b) official information related to decisions and resolutions made by will normally be communicated in the first instance to the community and the media in an official capacity by the Warden/Chair or designate;



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- c) information concerning adopted policies, procedures and decisions of the Council or the Local Board is conveyed openly and accurately; and
- d) confidential information will be communicated only when and after determined by Council.

### **11.0 Confidential Information**

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

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

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

Under the County's Procedural By-law, a matter that has been discussed at a Closed meeting remains confidential. No Member shall disclose the content of any such matter, or the substance of deliberations, of the Closed meeting until the Council or committee or the Local Board discusses the information at a meeting that is open to the public or releases the information to the public.

Requests for information will be referred to Municipal Clerk to be addressed as either an informal request for access to municipal records, or as a formal request under MFIPPA.

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

### **12.0 Conduct Regarding Current and Prospective Employment**

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

### **13.0 Gifts and Benefits**

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

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

The following are recognized as exceptions:

- a) compensation authorized by by-law;
- b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c) a political contribution otherwise reported by law, in the case of Members running for office; (i.e. disclosure related to election campaign contributions that are required to be otherwise reported.)
- d) services provided without compensation by persons volunteering their time;
- e) a suitable memento of a function honouring the Member;
- f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political

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subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event where the Member is either speaking or attending in an official capacity;

- g) food and beverages consumed at banquets, receptions or similar events, if:
  - (i) attendance is resultant to protocol or social obligations that accompanies the responsibility of office;
  - (ii) the person extending the invitation or a representative of the organization is in attendance; and
  - (iii) the value is reasonable and the invitations infrequent; and
- h) communication to the offices of a Member, including subscriptions to newspapers and periodicals.

In the case of categories (b), (e), (f) and (h), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source over a twelve (12) month period exceeds \$500, the Member shall within thirty (30) days of receipt of the gift or of reaching the annual limit, file a disclosure statement ([Appendix B](#)) with the Clerk.

The disclosure statement must indicate:

- (i) the nature of the gift or benefit
- (ii) its source and date of receipt
- (iii) the circumstances under which it was given or received;
- (iv) its estimated value;
- (v) what the recipient intends to do with the gift; and
- (vi) whether any gift will at any point become the property of the County.

All disclosure statements will be a matter of public record.



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

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

Except in the case of (a), (c) and (g), a Member may not accept a gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500, unless it falls within the exemption.

### **14.0 Use of County Property, Services and Other Resources**

Members should not use, or permit the use of County property, land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the County.

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

### **15.0 Implementation**

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



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

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

### **16.0 Integrity Commissioner**

The County may appoint an Integrity Commissioner to investigate concerns of non-adherence to this policy.

The Integrity Commissioner reports to Council and is responsible for performing the following duties in an independent and consistent manner:

- (i) Complaint Investigation: having the power to assess and investigate normal written complaints respecting alleged contraventions to this Code of Conduct for Essex County Council.
- (ii) Complaint Adjudication: determining whether a member of Council has in fact violated a protocol, by-law or policy governing their ethical behaviour, with the final decision making authority resting with Council as to whether the recommendation(s) of the Integrity Commissioner are imposed.
- (iii) Annual Reporting: providing Council, through the Clerk's Office, with an annual report on findings of complaint cases.
- (iv) Advising Council: providing written and oral advice to Council, staff, and members of the public concerning the interpretation of and compliance with, the Code of Conduct, and other legislation governing the ethical behaviour of members, and revisions thereto.

### **17.0 Complaint Protocol**

Any individual, organization, County employee, and Member, who has reasonable grounds to believe that a Member has breached a provision of the Code of Conduct, may file a complaint. Complaints must be submitted within six (6) weeks of the matter first becoming known to the complainant and cannot be filed more than six (6) months after the alleged violation

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occurred. No action will be taken on a complaint received beyond either of the foregoing deadline.

A complainant does not have to pursue the informal complaint process set out in Section 17.1 prior to proceeding with the formal complaint process set out in Section 17.2.

### **17.1 Informal Complaints**

Any individual (members of the public, municipal employees, members of Council or Local Boards, etc.) or organizations who have identified or witnessed behaviour or an activity by a Member that appears to be in contravention of the Code of Conduct are encouraged to address his or her concerns in the following manner:

- a) advise the Member that their behaviour or activity contravenes the Code of Conduct;
- b) encourage the Member to stop the prohibited behaviour or activity;
- c) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- d) if applicable, confirm to the Member his or her satisfaction with the Member's response to the concern identified, or if applicable, advise the Member of your dissatisfaction with the response; and
- e) consider the need to pursue the matter in accordance with a formal complaint through the Integrity Commissioner as outlined in Section 17.1., or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals or organizations are encouraged to initially pursue the Informal Complaint Process as a means of stopping and remedying a behaviour that is prohibited by the Code of Conduct.

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## 17.2 Formal Complaints

The County shall charge a fee, as designed in the County's Fees and Charges By-law, to file a written complaint under the County of Essex Code of Conduct.

Fees shall be subject to reimbursement if it is determined that the complaint is not frivolous or vexatious.

All provisions of this Section apply to a request for an inquiry by an individual or an organization other than Council or a Committee.

This does not preclude individual members of Council / Committees or Local Boards from filing a formal written complaint.

### 1) Complaint

A request for an investigation of a complaint that a member of Council has contravened the Code of Conduct (the "complaint") shall be in writing.

All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).

A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened this policy and includes a supporting affidavit, as provided in [Appendix A](#), that sets out the evidence in support of the complaint.

Any commissioners for taking affidavits are authorized to take the supporting affidavit.

The request for an investigation shall be filed with the Municipal Clerk, who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on appearance, a complaint with respect to non-compliance of the Code of Conduct, and not covered by other legislation or other Council policies.

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### 2) Deferral

- a) If the complaint does not include a supporting affidavit, the Integrity Commissioner may defer the classification until an affidavit is received.
- b) If the complaint, including any supporting affidavit, is not, on appearance, a complaint with respect to non-compliance with the Code of Conduct, or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall instruct the Clerk to advise the complainant in writing as follows:
  - (i) If the complaint, on its face, is an allegation of criminal nature consistent with the Criminal Code of Canada, the complainant shall be advised that if they wish to pursue such allegation, they must pursue it with the appropriate police force.
  - (ii) If the complaint, on its face, is with respect to non-compliance with the Municipal Conflict of Interest Act, the complainant shall be advised to review the matter with their own legal counsel.
  - (iii) If the complaint, on its face, is with respect to non-compliance with the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be advised that the matter will be reviewed by the Municipal Clerk.
  - (iv) If the complaint, on its face, is with respect to non-compliance with a more specific Council policy with a separate complaint process, the complainant shall be advised that the matter will be processed under that procedure.
  - (v) In other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.



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### **3) Reports**

- a) The Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner
- b) The Integrity Commissioner shall report annually to Council on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.
- c) Should no complaints be received within a calendar year, the Clerk shall report to Council accordingly and no annual report shall be made by the Integrity Commissioner.

### **4) Refusal to Conduct Investigation**

If the Integrity Commissioner is of the opinion that the referral of a matter is frivolous, vexatious, or not made in good faith, or that there are insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

Complaints referred that are repetitious in nature, not relevant to the Code of Conduct, deemed frivolous, vexatious, or without substance in the opinion of the Integrity Commissioner, shall not be advanced to an investigation stage.

Other than in exceptional circumstances, the Integrity Commissioner will not report to Council on any complaint described as frivolous or vexatious except as part of an annual or other periodic report.

### **5) Investigation**

If a complaint has been classified within the Integrity Commissioner's jurisdiction and not rejected, the Integrity Commissioner shall investigate and may attempt to settle the complaint.

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### **6) Public Inquiries Act**

- a) Under Section 223.4(s) of the Municipal Act, 2001, the Integrity Commissioner may elect to investigate a complaint by exercising the powers of a commission under Parts I and II of the Public Inquiries Act.
- b) When the Public Inquiries Act applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this complaint protocol, but if there is a conflict between a provision of the complaint protocol and a provision of the Public Inquiries Act, the provision of the Public Inquiries Act prevails.

### **7) Opportunity to Comment**

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

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

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

The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any member unless the member has had 10 days' notice of the basis for the proposed finding and any recommended sanction and an opportunity to respond in writing, within the same said ten days, to the Integrity Commissioner on their findings and any recommended sanction.

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### **8) Interim Reports**

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

### **9) Final Report**

The Integrity Commissioner shall report the general findings of their investigation to the complainant and the member no later than 90 days after the making of the complaint.

That report shall indicate when the Integrity Commissioner anticipates presenting their recommended corrective action(s) for Council's consideration.

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

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

### **10) Lawful Recommendations**

- a) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.
- b) Permitted corrective actions are provided in Section 18 – Non-Compliance with This Code of Conduct – Sanctions.

### **11) Member Not Blameworthy**

If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct, or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity

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

### **12) Report to Council**

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

### **13) Duty of Council**

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

### **14) Confidentiality**

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

- a) The Integrity Commissioner and every person acting under their instructions shall preserve secrecy with respect to all matters that come to their knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Section 223.5(1) of the Municipal Act, 2001.
- b) Pursuant to Section 223.5(3) of the Municipal Act, 2001 this Section prevails over the Municipal Freedom of Information and Protection of Privacy Act.
- c) If the Integrity Commissioner reports to the County their opinion about whether a member of Council has contravened the Code of Conduct, the Integrity Commissioner may disclose in the report such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.
- d) The County shall ensure that reports received from the Integrity Commissioner by the County are made available to



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the public upon the matter being reported out to the members of Council.

- (i) Neither the Integrity Commissioner nor any person acting under the instructions of the Integrity Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this part.
- e) If the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the Criminal Code of Canada, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council through the Municipal Clerk.

### **15) Integrity Commissioner Vacancy**

Should the appointment of an Integrity Commissioner expire or be non-existent for whatever reason, the Code of Conduct for Council Members Policy remains in effect and all members shall abide by the provisions set out therein.

When a vacancy occurs, all formal complaints shall be held in abeyance until such time as a new Integrity Commissioner is appointed, or an interim measure is enacted to enable the complaint to be addressed within a reasonable amount of time.

### **17.3 Disputes Between Members of Council – Resolution Process**

Before commencing any formal dispute resolution process, members of Council who are parties to any disagreement will endeavour to resolve their differences in a courteous and respectful manner, recognizing that they have been elected to represent the best interests of the community.

In the event of any dispute that occurs where the members of Council are unable to resolve interpersonal conflicts that adversely affect the operation of the Council, the parties to the dispute agree to work together to try to resolve the dispute.

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The parties agree to the appointment of a mediator nominated by the Clerk and who is acceptable to both parties.

- a) Failing agreement within 14 days, the mediator shall be appointed by the CAO.

If a mediator is appointed, all members of Council agree to cooperate with the dispute resolution process and use their best efforts to assist the mediator when requested.

In the event that a dispute cannot be resolved through the setting aside of differences of opinions, or through the use of a mediator, or if the members of Council do not participate in any related processes, it may be referred to a group of Councillors or to a resolution of Council.

If the dispute relates to an apparent offence under the Code of Conduct or other policy relating to the ethical behaviour of members of Council, it shall be referred to the Integrity Commissioner who will serve as mediator.

This resolution process is not intended to resolve differences in policy or decision making, which are appropriately resolved through debate and voting in Council and Committee Meetings.

### **18.0 Non-Compliance With The Code of Conduct – Sanctions**

A Council member found by the Integrity Commissioner, to have contravened any provision of this policy, is subject to one or more of the following consequences imposed by Council, as referred to in the following two paragraphs:

- a) The Municipal Act, 2001 authorizes Council, where it has received a report by the County's Integrity Commissioner that, in his or her opinion, there has been a violation of this Code of Conduct policy, to impose upon the offending member of Council:
  - (i) A reprimand.
  - (ii) Suspension of the remuneration paid to the Council member in respect of his or her services as a

## **Essex County Council Code of Conduct**

member of Council or a local board, as the case may be, for a period of up to 90 days.

- b) The Integrity Commissioner, or Council by way of official motion, may also recommend that Council or a local board take one or more of the following actions:
  - (i) Removal from membership on a committee or local board.
  - (ii) Removal as chair of a committee or local board.
  - (iii) Request an apology to Council, the complainant, or both.
  - (iv) Any other or additional action deemed by Council to be appropriate, and which is within its powers to take.

### **19.0 No Reprisal or Obstruction in the Application or Enforcement of this Policy**

Every member of Council must respect the integrity of the Code of Conduct for Essex County Council and inquiries and investigations conducted under it, and shall cooperate in every way possible in securing compliance with its application and enforcement.

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

It is also a violation of this policy to obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this policy, in the carrying out of such responsibilities, or pursuing any such objective.

## Essex County Council Code of Conduct

### Appendix A Essex County Council Code of Conduct – Formal Complaint Process Affidavit

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

Permanent place of residence: \_\_\_\_\_

Mailing Address (if Different from above): \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I have reasonable and probable grounds to believe that \_\_\_\_\_

(specify name of Member in question) has contravened section(s) \_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Schedule A attached ☐ Yes ☐ No

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



## Essex County Council Code of Conduct

Sworn (or Affirmed) before me at the Town of Essex in the County of Essex,  
in the Province of Ontario on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
A Commissioner, etc.

\_\_\_\_\_  
Signature of Complainant  
(to be witnessed by Commissioner)

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

# Essex County Council Code of Conduct

## Schedule A - Additional Information to Formal Complaint Form / Affidavit

Below is additional information to Appendix A – Formal Complaint Form / Affidavit. If more than one page is required, please photocopy this blank page and mark each additional page as 2 or 2, 2 of 3, etc. at the top right corner.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

This Schedule A referred to in the Affidavit of

\_\_\_\_\_ (full name) sworn (or affirmed) before  
me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

A Commissioner for taking affidavits, etc.

## Appendix B Disclosure Statement

Nature of Gift or Benefit received: \_\_\_\_\_

Source of Gift or Benefit: \_\_\_\_\_

Circumstances under which Gift or Benefit received:\_\_\_\_\_

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

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

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

Signature of Member	Date
---------------------	------

Signature of Clerk	Date received
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## **Essex County Council Code of Conduct**

### **Appendix C      Statement of Commitment**

I, \_\_\_\_\_, a Member of Essex County Council,  
have read and understand the Code of Conduct and I am  
committed to observing its provisions.

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

Signature: \_\_\_\_\_