



The Corporation of the County of Essex

By-Law Number 06-2019

A By-law to Amend the Code of Conduct for Members of Essex County Council and of its Local Boards

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, requires municipalities 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. 35-2018 for the purposes of investigating alleged transgressions or breach of the Code of Conduct adopted by Council;

And Whereas a review of the Code of Conduct for members of Essex County Council, enacted by By-Law No. 16-2008 and subsequently amended by By-Law No. 49-2016, was undertaken to establish a Code of Conduct that prescribes a Code of Conduct Complaint Process;

And Whereas Council deems it necessary to repeal By-Law No. 49-2016 to enact an amended Code of Conduct for Members of Essex County Council, Local Boards and of its Local Boards;

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.

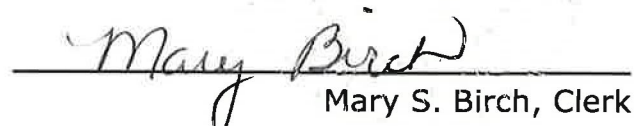
By-Law Number 06-2019

Page 2

- 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.
- 3) That By-law No. 49-2016 be hereby repealed.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 20th day of February, 2019.


Gary McNamara, Warden


Mary S. Birch, Clerk

Clerk's Certificate

I, Mary S. Birch, 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 06-2019** passed by the Council of the said Corporation on the **20th**, day of **February, 2019**.

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



Essex County Council Code of Conduct

Council, Local Boards and Committee Members

Approved by:	Essex County Council
Date Approved:	Click here to enter a date.
Last Revision Date:	2016-10-19
Replaces:	By-law #49-2016

1.0 Preamble

- 1.1** 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

- 2.1** This Code applies to every Member. This Code shall be applied to Members who are members of a local board and not members of Council with necessary modifications applied in the discretion of the Integrity Commissioner.

3.0 Purpose

- 3.1** 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

Essex County Council Code of Conduct

is false, or with the intent to mislead other Members or the public; and,

- Members shall serve the public interest by upholding the laws and policies established by the Federal Parliament, Ontario Legislature, and the laws and policies adopted by Essex County Council.

3.2 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

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

4.2 "**Applicant**" means a person who has applied for an investigation by the Integrity Commissioner of an alleged contravention of the Municipal Conflict of Interest Act.

4.3 "**Application**" means a written request for an investigation with respect to an alleged contravention of the Municipal Conflict of Interest Act.

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

4.5 "**Complainant**" means a person who has filed a Complaint under the Code of Conduct.

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

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

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

4.9 "**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.

Essex County Council Code of Conduct

- 4.10** **"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 (and all others).
- 4.11** **"Local Board"** is hereby defined as in Section 1(1) and Section 223.1 of the Municipal Act, as amended.
- 4.12** **"Member"** means a Member of Council, including the Warden, or a Member of a Local Board.
- 4.13** 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

- 5.1** 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.

Essex County Council Code of Conduct

- 5.2** 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.
- 5.3** 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

- 6.1** 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.

7.0 Improper Use of Influence

- 7.1** 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.
- 7.2** 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.
- 7.3** For the purposes of this provision, "private advantage" does not include a matter that:

Essex County Council Code of Conduct

- 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

- 8.1** 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.
- 8.2** The Ontario Human Rights Code applies, as does the County's Employee Harassment in the Workplace Policy and Workplace Violence Policy which recognize the right of every employee to work in an environment that is free from discrimination and harassment, by the employer, agent of the employer, another employee, or any other person with whom s/he comes into contact in the normal performance of his/her duties.
- 8.3** Members shall abide by the provisions of the Ontario Human Rights Code, and, in doing so, shall treat every person, including other Members, employees, and individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 8.4** 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.
- 8.5** 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.

Essex County Council Code of Conduct

- 8.6** 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

- 9.1** 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.
- 9.2** Under the direction of the Chief Administrative Officer, staff serve the Council as a whole, and the combined interests of all Members as evidenced 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.

Essex County Council Code of Conduct

- 9.3** 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.
- 9.4** 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

- 10.1** 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;
 - 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.

Essex County Council Code of Conduct

11.0 Confidential Information

- 11.1** 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.
- 11.2** 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.
- 11.3** 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.
- 11.4** 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.
- 11.5** 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.
- 11.6** 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.

Essex County Council Code of Conduct

12.0 Conduct Regarding Current and Prospective Employment

- 12.1** 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

- 13.1** 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.
- 13.2** 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.
- 13.3** The following are recognized as exceptions:
- a) compensation authorized by by-law;
 - b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - c) a political contribution otherwise reported by law, in the case of Members running for office; (i.e. disclosure related to election campaign contributions that are required to be otherwise reported.)
 - d) services provided without compensation by persons volunteering their time;
 - e) a suitable memento of a function honouring the Member;
 - f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event where the Member is either speaking or attending in an official capacity;

Essex County Council Code of Conduct

- 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.

13.4 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.

13.5 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.

13.6 All disclosure statements will be a matter of public record.

Essex County Council Code of Conduct

- 13.7** 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.
- 13.8** 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.
- 13.9** 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

- 14.1** 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.
- 14.2** 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.

Essex County Council Code of Conduct

15.0 Implementation

- 15.1** 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.
- 15.2** A Code of Conduct component will be included as part of the orientation workshop for each new Council.
- 15.3** 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 Role of the Integrity Commissioner

- 16.1** The County shall appoint an Integrity Commissioner under Section 223.3 of the Municipal Act, 2001 who is an independent officer and who will report directly to Council and be responsible for carrying out his or her functions in accordance with the Municipal Act, 2001 and any other functions assigned by Council, in an independent manner.
- 16.2** The Integrity Commissioner shall provide the following services:
 - a) The Application of the code of conduct for members of Council and the Code of Conduct for members of local boards or of either of them.
 - b) The Application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of Council and of local boards or of either of them.
 - c) The Application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of Council or of local boards.
 - d) Requests from members of Council and of local boards for advice respecting their obligations under the Code of Conduct applicable to the member. All requests for such advice and the advice in response thereto, shall be provided in writing.

Essex County Council Code of Conduct

- e) Requests from members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the Council or of the local board, as the case may be, governing the ethical behaviour of members. All requests for such advice and the advice in response thereto, shall be provided in writing.
- f) Requests from members of Council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act. All requests for such advice and the advice in response thereto, shall be provided in writing.
- g) The provision of educational information to members of Council, members of local boards, the municipality and the public about the municipality's Code of Conduct for members of Council and members of local boards and about the Municipal Conflict of Interest Act.

17.0 Complaint Protocol

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

17.2 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.

17.3 Informal Complaints

17.3.1 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;

Essex County Council 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., or in accordance with another applicable judicial or quasi-judicial process or compliant procedure.

17.3.2 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.

17.4 Formal Complaint/Application Process

17.4.1 A Complaint (and all others) that a Member has contravened the Code or a corporate policy of the County may be initiated by any person, any Member of Council, or by Council as follows:

- a) a Complaint shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
- b) a Complaint must be signed and dated by the Complainant who shall be an identifiable individual (Complaints may not be submitted by any group, organization or corporation);
- c) a Complaint shall include:
 - (i) an explanation, with specific reference to sections of the Code, as to why the issue raised is alleged to be a contravention of the Code;

Essex County Council Code of Conduct

- (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified.
 - d) the alleged violation shall have taken place within sixty (60) days of filing the Complaint with the Integrity Commissioner;
- 17.4.2 If filed with the Integrity Commissioner on or after March 1, 2019, an Application (and all others) to the Integrity Commissioner to inquire into an alleged contravention of Sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* ("MCIA") may be made by an elector as defined in Section 1 of the MCIA or by a person demonstrably acting in the public interest, as follows:
- a) an Application shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
 - b) an Application must be signed and dated by the Complainant who shall be an identifiable individual (Complaints may not be submitted by any group, organization or corporation);
 - c) an Application shall include:
 - (i) an explanation, with specific reference to sections of the MCIA, as to why the issue raised is alleged to be a contravention of the Act;
 - (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified; and
 - (iv) a statutory declaration attesting to the fact that the Applicant became aware of the alleged contravention not more than six weeks before the date of Application in accordance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

Essex County Council Code of Conduct

- d) an Application may only be made six weeks after the Applicant became aware of the alleged contravention and otherwise in compliance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

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

- (i) **Criminal Matter** – if the Complaint relates to an allegation of a criminal nature consistent with the Criminal Code, the Complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
- (ii) **Municipal Freedom of Information and Protection of Privacy** – if the Complaint relates to a matter under the Municipal Freedom of Information and Protection of Privacy Act, the Complainant shall be referred to the Clerk.
- (iii) **Municipal Elections Act** – if the Complaint relates to the enforcement of the Municipal Elections Act, the Complainant shall be referred to the Compliance Audit Process if the matter relates to campaign finances or to such other avenues of investigation as dictated by that Act.

17.4.4 If the Integrity Commissioner determines that he or she does not have jurisdiction as described in Section 17.4 the Integrity Commissioner shall advise the Complainant/Applicant in writing accordingly.

Essex County Council Code of Conduct

- 17.4.5 The Integrity Commissioner may dispose of a Complaint or Application on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may do so confidentially or report same to Council. The Integrity Commissioner may also seek further information or clarification from the Complainant/Applicant and shall endeavour to apprise the Complainant/Applicant of subsequent steps and the processing of the Complaint or Application and any ensuing investigation.
- 17.4.6 If the Integrity Commissioner is of the opinion that a Complaint or Application is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the Complaint/Application in a summary manner. The Integrity Commissioner shall advise the Complainant/Applicant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.
- 17.4.7 If the Integrity Commissioner has decided to commence an investigation (except where otherwise required by the *Public Inquiries Act, 2009*, if applicable), the Integrity Commissioner shall provide a copy of the Complaint or Application and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within ten (10) days. The Integrity Commissioner may provide the response from the Member to the Complainant/Applicant with a request for a written reply also within ten (10) days. A Complainant/Applicant may request that his/her Complaint remain anonymous and, if approved by the Integrity Commissioner, the name will not be released.

Essex County Council Code of Conduct

- 17.4.8 The Integrity Commissioner shall review the written responses and may, if necessary, discuss the matter with anyone that the Integrity Commissioner considers is relevant to the Complaint. The Integrity Commissioner may access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act, 2001* and may access any County workplace relevant to the Complaint, including any documents or records under the custody or control of the County.
- 17.4.9 Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.
- 17.4.10 Upon conclusion of a Complaint investigation, the Integrity Commissioner shall:
- a) issue a report to Council on the findings of the investigation and, where there is a finding of contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and
 - b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the Complainant at the same time as the report becomes public.
- 17.4.11 Upon conclusion of an Application investigation, the Integrity Commissioner may, if he/she considers it appropriate, apply to a Judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravened Section 5, 5.1 or 5.2 of the Act.

Essex County Council Code of Conduct

17.4.12 The Commissioner shall:

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

17.4.13 The Integrity Commissioner's report on a Complaint or an Application shall be placed on an agenda for consideration at a public meeting of the Committee of the Whole or Council, in accordance with the Procedure By-law, as determined by the Clerk in consultation with the Integrity Commissioner.

18.0 Election Blackout Period

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

19.0 Penalties

19.1 Upon receipt of a final report with respect to a Complaint and the recommendations of the Integrity Commissioner, Council may, where the Integrity Commissioner has determined there was a violation of the Code, impose either of the following two (2) penalties:

- a) a reprimand; or
- b) suspension of remuneration paid to the Member in respect of his or her services as a Member for up to ninety (90) days.

Essex County Council Code of Conduct

19.2 Council may also take the following actions:

- a) removal from membership of a committee;
- b) removal as chair of a committee;
- c) request the repayment or reimbursement of monies received;
- d) request the return of property or reimbursement of its value;



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

Essex County Council Code of Conduct

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.

Sworn (or Affirmed) before me in 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.

Schedule A - Additional Information to Formal Complaint Form / Affidavit

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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

Page 23 of 25

Essex County Council Code of Conduct

Appendix B Disclosure Statement

Section 13 of the Code of Conduct regarding the acceptance of gifts and benefits, requires Members to disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$300 or if the total value of gifts and benefits received from one source in a calendar year exceeds \$500. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk within 30 days of receipt of such gift or benefit, or upon reaching the annual limit. Disclosure Statements are a matter of public record.

Nature of Gift or Benefit received: _____

Source of Gift or Benefit: _____

Circumstances under which Gift or Benefit received: _____

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

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: _____



Essex County Council Code of Conduct

Council, Local Boards and Committee Members

Approved by:	Essex County Council
Date Approved:	2019-02-20
Last Revision Date:	2016-10-19
Replaces:	By-law #49-2016

1.0 Preamble

- 1.1** 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

- 2.1** This Code applies to every Member. This Code shall be applied to Members who are members of a local board and not members of Council with necessary modifications applied in the discretion of the Integrity Commissioner.

3.0 Purpose

- 3.1** 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

Essex County Council Code of Conduct

is false, or with the intent to mislead other Members or the public; and,

- Members shall serve the public interest by upholding the laws and policies established by the Federal Parliament, Ontario Legislature, and the laws and policies adopted by Essex County Council.

3.2 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

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

4.2 "**Applicant**" means a person who has applied for an investigation by the Integrity Commissioner of an alleged contravention of the Municipal Conflict of Interest Act.

4.3 "**Application**" means a written request for an investigation with respect to an alleged contravention of the Municipal Conflict of Interest Act.

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

4.5 "**Complainant**" means a person who has filed a Complaint under the Code of Conduct.

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

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

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

4.9 "**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.

Essex County Council Code of Conduct

- 4.10** **"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 (and all others).
- 4.11** **"Local Board"** is hereby defined as in Section 1(1) and Section 223.1 of the Municipal Act, as amended.
- 4.12** **"Member"** means a Member of Council, including the Warden, or a Member of a Local Board.
- 4.13** 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

- 5.1** 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.

Essex County Council Code of Conduct

- 5.2** 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.
- 5.3** 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

- 6.1** 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.

7.0 Improper Use of Influence

- 7.1** 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.
- 7.2** 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.
- 7.3** For the purposes of this provision, "private advantage" does not include a matter that:

Essex County Council Code of Conduct

- 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

- 8.1** 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.
- 8.2** The Ontario Human Rights Code applies, as does the County's Employee Harassment in the Workplace Policy and Workplace Violence Policy which recognize the right of every employee to work in an environment that is free from discrimination and harassment, by the employer, agent of the employer, another employee, or any other person with whom s/he comes into contact in the normal performance of his/her duties.
- 8.3** Members shall abide by the provisions of the Ontario Human Rights Code, and, in doing so, shall treat every person, including other Members, employees, and individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 8.4** 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.
- 8.5** 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.

Essex County Council Code of Conduct

8.6 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

9.1 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.

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

Essex County Council Code of Conduct

- 9.3** 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.
- 9.4** 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

- 10.1** 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;
 - 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.

Essex County Council Code of Conduct

11.0 Confidential Information

- 11.1** 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.
- 11.2** 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.
- 11.3** 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.
- 11.4** 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.
- 11.5** 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.
- 11.6** 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.

Essex County Council Code of Conduct

12.0 Conduct Regarding Current and Prospective Employment

- 12.1** 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

- 13.1** 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.
- 13.2** 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.
- 13.3** The following are recognized as exceptions:
- a) compensation authorized by by-law;
 - b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - c) a political contribution otherwise reported by law, in the case of Members running for office; (i.e. disclosure related to election campaign contributions that are required to be otherwise reported.)
 - d) services provided without compensation by persons volunteering their time;
 - e) a suitable memento of a function honouring the Member;
 - f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event where the Member is either speaking or attending in an official capacity;

Essex County Council Code of Conduct

- 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.

13.4 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.

13.5 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.

13.6 All disclosure statements will be a matter of public record.

Essex County Council Code of Conduct

- 13.7** 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.
- 13.8** 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.
- 13.9** 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

- 14.1** 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.
- 14.2** 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.

Essex County Council Code of Conduct

15.0 Implementation

- 15.1** 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.
- 15.2** A Code of Conduct component will be included as part of the orientation workshop for each new Council.
- 15.3** 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 Role of the Integrity Commissioner

- 16.1** The County shall appoint an Integrity Commissioner under Section 223.3 of the Municipal Act, 2001 who is an independent officer and who will report directly to Council and be responsible for carrying out his or her functions in accordance with the Municipal Act, 2001 and any other functions assigned by Council, in an independent manner.
- 16.2** The Integrity Commissioner shall provide the following services:
 - a) The Application of the code of conduct for members of Council and the Code of Conduct for members of local boards or of either of them.
 - b) The Application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of Council and of local boards or of either of them.
 - c) The Application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of Council or of local boards.
 - d) Requests from members of Council and of local boards for advice respecting their obligations under the Code of Conduct applicable to the member. All requests for such advice and the advice in response thereto, shall be provided in writing.

Essex County Council Code of Conduct

- e) Requests from members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the Council or of the local board, as the case may be, governing the ethical behaviour of members. All requests for such advice and the advice in response thereto, shall be provided in writing.
- f) Requests from members of Council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act. All requests for such advice and the advice in response thereto, shall be provided in writing.
- g) The provision of educational information to members of Council, members of local boards, the municipality and the public about the municipality's Code of Conduct for members of Council and members of local boards and about the Municipal Conflict of Interest Act.

17.0 Complaint Protocol

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

17.2 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.

17.3 Informal Complaints

17.3.1 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;

Essex County Council 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., or in accordance with another applicable judicial or quasi-judicial process or compliant procedure.

17.3.2 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.

17.4 Formal Complaint/Application Process

17.4.1 A Complaint (and all others) that a Member has contravened the Code or a corporate policy of the County may be initiated by any person, any Member of Council, or by Council as follows:

- a) a Complaint shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
- b) a Complaint must be signed and dated by the Complainant who shall be an identifiable individual (Complaints may not be submitted by any group, organization or corporation);
- c) a Complaint shall include:
 - (i) an explanation, with specific reference to sections of the Code, as to why the issue raised is alleged to be a contravention of the Code;

Essex County Council Code of Conduct

- (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified.
 - d) the alleged violation shall have taken place within sixty (60) days of filing the Complaint with the Integrity Commissioner;
- 17.4.2 If filed with the Integrity Commissioner on or after March 1, 2019, an Application (and all others) to the Integrity Commissioner to inquire into an alleged contravention of Sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* ("MCIA") may be made by an elector as defined in Section 1 of the MCIA or by a person demonstrably acting in the public interest, as follows:
- a) an Application shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
 - b) an Application must be signed and dated by the Complainant who shall be an identifiable individual (Complaints may not be submitted by any group, organization or corporation);
 - c) an Application shall include:
 - (i) an explanation, with specific reference to sections of the MCIA, as to why the issue raised is alleged to be a contravention of the Act;
 - (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified; and
 - (iv) a statutory declaration attesting to the fact that the Applicant became aware of the alleged contravention not more than six weeks before the date of Application in accordance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

Essex County Council Code of Conduct

- d) an Application may only be made six weeks after the Applicant became aware of the alleged contravention and otherwise in compliance with Section 223.4.1(5) & (6) of the *Municipal Act*, as amended.

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

- (i) **Criminal Matter** – if the Complaint relates to an allegation of a criminal nature consistent with the Criminal Code, the Complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;
- (ii) **Municipal Freedom of Information and Protection of Privacy** – if the Complaint relates to a matter under the Municipal Freedom of Information and Protection of Privacy Act, the Complainant shall be referred to the Clerk.
- (iii) **Municipal Elections Act** – if the Complaint relates to the enforcement of the Municipal Elections Act, the Complainant shall be referred to the Compliance Audit Process if the matter relates to campaign finances or to such other avenues of investigation as dictated by that Act.

17.4.4 If the Integrity Commissioner determines that he or she does not have jurisdiction as described in Section 17.4 the Integrity Commissioner shall advise the Complainant/Applicant in writing accordingly.

Essex County Council Code of Conduct

- 17.4.5 The Integrity Commissioner may dispose of a Complaint or Application on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may do so confidentially or report same to Council. The Integrity Commissioner may also seek further information or clarification from the Complainant/Applicant and shall endeavour to apprise the Complainant/Applicant of subsequent steps and the processing of the Complaint or Application and any ensuing investigation.
- 17.4.6 If the Integrity Commissioner is of the opinion that a Complaint or Application is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the Complaint/Application in a summary manner. The Integrity Commissioner shall advise the Complainant/Applicant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.
- 17.4.7 If the Integrity Commissioner has decided to commence an investigation (except where otherwise required by the *Public Inquiries Act, 2009*, if applicable), the Integrity Commissioner shall provide a copy of the Complaint or Application and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within ten (10) days. The Integrity Commissioner may provide the response from the Member to the Complainant/Applicant with a request for a written reply also within ten (10) days. A Complainant/Applicant may request that his/her Complaint remain anonymous and, if approved by the Integrity Commissioner, the name will not be released.

Essex County Council Code of Conduct

- 17.4.8 The Integrity Commissioner shall review the written responses and may, if necessary, discuss the matter with anyone that the Integrity Commissioner considers is relevant to the Complaint. The Integrity Commissioner may access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act, 2001* and may access any County workplace relevant to the Complaint, including any documents or records under the custody or control of the County.
- 17.4.9 Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.
- 17.4.10 Upon conclusion of a Complaint investigation, the Integrity Commissioner shall:
- a) issue a report to Council on the findings of the investigation and, where there is a finding of contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and
 - b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the Complainant at the same time as the report becomes public.
- 17.4.11 Upon conclusion of an Application investigation, the Integrity Commissioner may, if he/she considers it appropriate, apply to a Judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the member has contravened Section 5, 5.1 or 5.2 of the Act.

Essex County Council Code of Conduct

17.4.12 The Commissioner shall:

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

17.4.13 The Integrity Commissioner's report on a Complaint or an Application shall be placed on an agenda for consideration at a public meeting of the Committee of the Whole or Council, in accordance with the Procedure By-law, as determined by the Clerk in consultation with the Integrity Commissioner.

18.0 Election Blackout Period

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

19.0 Penalties

19.1 Upon receipt of a final report with respect to a Complaint and the recommendations of the Integrity Commissioner, Council may, where the Integrity Commissioner has determined there was a violation of the Code, impose either of the following two (2) penalties:

- a) a reprimand; or
- b) suspension of remuneration paid to the Member in respect of his or her services as a Member for up to ninety (90) days.

Essex County Council Code of Conduct

19.2 Council may also take the following actions:

- a) removal from membership of a committee;
- b) removal as chair of a committee;
- c) request the repayment or reimbursement of monies received;
- d) request the return of property or reimbursement of its value;



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

Essex County Council Code of Conduct

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.

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

_____ ,	_____
A Commissioner, etc.	Signature of Complainant <i>(to be witnessed by Commissioner)</i>

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.

Schedule A - Additional Information to Formal Complaint Form / Affidavit

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

A Commissioner for taking affidavits, etc.

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Appendix B Disclosure Statement

Section 13 of the Code of Conduct regarding the acceptance of gifts and benefits, requires Members to disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$300 or if the total value of gifts and benefits received from one source in a calendar year exceeds \$500. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk within 30 days of receipt of such gift or benefit, or upon reaching the annual limit. Disclosure Statements are a matter of public record.

Nature of Gift or Benefit received: _____

Source of Gift or Benefit: _____

Circumstances under which Gift or Benefit received: _____

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

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: _____

1. Repeals 49-2016