

THE CORPORATION OF THE MUNICIPALITY OF MARKSTAY-WARREN

BY-LAW 2019-01- BEING A BY-LAW TO AUTHORIZE THE ADOPTION OF A  
COUNCIL CODE OF CONDUCT

WHEREAS Section 223.2 (1) of the *Municipal Act, 2001*, authorizes the municipality to establish codes of conduct for Members of the Council of the municipality and of local boards of the municipality;

NOW THEREFORE, THE COUNCIL FOR THE MUNICIPALITY OF MARKSTAY-WARREN ENACTS AS FOLLOWS:

1. That Council adopts the Council Code of Conduct for the Municipality of MARKSTAY-WARREN identified as Schedule "A" attached hereto and forming part of this by-law.
2. That the Council Code of Conduct shall apply to all Members of Council. This Code of Conduct also applies equally to all Members of Boards and Committees of the Municipality, whether or not a Member of that Board or Committee is also a Member of Council.
3. That Members of Council, Committee Members, and Board Members of the Municipality of MARKSTAY-WARREN shall acknowledge their receipt and understanding of the Council Code of Conduct by signing and dating the Acknowledgement of Understanding and Compliance form.
4. That any amendments to the Council Code of Conduct shall be acknowledged by Members of Council, Committee and Board Members of the Municipality of MARKSTAY-WARREN, by re-signing and dating the Acknowledgement of Understanding and Compliance Form.
5. That this Council Code of Conduct shall apply to all future Members of Council, Members of Committees, and Board Members of the Municipality of MARKSTAY-WARREN.
6. That a vote of two-thirds of all Council Members be required to amend or repeal this by-law.
7. That this by-law shall come into full force and effect upon its passing.

READ A FIRST, SECOND TIME THIS 21<sup>ST</sup> DAY OF JANUARY 2019.

READ A THIRD TIME AND FINALLY PASSED THIS 19TH DAY OF FEBRUARY,  
2019.

MAYOR

CLE

**Schedule 'A'- By-law 2019-01**  
**Code of Conduct for Members of Council, Committees and Local Boards**  
**of the Municipality of MARKSTAY-WARREN ("Members")**

**1. Purpose and Policy Statement**

The Council Code of Conduct is a public declaration of the principles of good conduct and ethics that are expected by Members.

Members are held to a high standard as leaders of the community and they are expected to become well informed on all aspects of municipal governance, administration, planning and operations and to carry out their duties in a fair, impartial, transparent and professional manner. A Code of Conduct aims to ensure public trust and confidence in the Municipality's decision making and operations. Adherence to these standards will protect and maintain the Municipality's reputation and integrity of its decision making process. In addition, it is meant to assist Members in understanding the standards of conduct that are expected of them so that they may fulfill their duty to act honestly and with care and diligence.

**2. Statutory Provisions Regarding Conduct**

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

- a) The Municipal Act
- b) The Municipal Conflict of Interest Act (MCIA)
- c) The Municipal Elections Act (MEA)
- d) The Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)
- e) The Ontario Human Rights Code (OHRC)
- f) The Provincial Offences Act (POA)
- g) The Criminal Code of Canada (CCC)
- h) The Occupational Health and Safety Act (OHSA)
- i) The Accessibility for Ontarians with Disabilities Act (AODA)

**3. Application**

This Code of Conduct applies to all Members of Council. It also applies equally to all Members of Boards and Committees of the Municipality, whether or not a Member of that Board or Committee is also a Member of Council.

**4. General Principles and Values**

Members shall:

- a) respect the role of Council as set out in the *Municipal Act*;
- b) support the mission, vision and values of the Municipality;
- c) respect the decision-making process of Council by accurately communicating the decision reached by the majority of Council, even if they disagree with the outcome;
- d) maintain professionalism, integrity, respect, and trust;
- e) promote open, accountable and transparent local government; and
- f) encourage public respect for the Municipality, its by-laws and policies.

## 5. Definitions

In this Code of Conduct, the following terms have the meanings set out below:

- a) "Chief Administrative Officer" or "CAO" shall mean the employee who is responsible for exercising general control or management of the administration and affairs of the Municipality and other duties as directed by Council.
- b) "Child" includes a child born within or outside of marriage and includes an adopted child and a person to whom the Member has demonstrated a settled intention to treat as a child of his or her family.
- c) "Closed/In-Camera Meeting" means any meeting of Council, Committee of the Whole, Standing Committee or Board that is closed to the public in accordance with the *Municipal Act*.
- d) "Confidential Information" includes information in the possession of, or received in confidence by the Municipality, that the Municipality is prohibited from disclosing, that the Municipality is required to refuse to disclose, or that the Municipality chooses not to disclose, under MFIPPA, or other legislation or policy of the Municipality. Without limiting the generality of the foregoing, Confidential Information also includes all information concerning matters dealt with at Closed/In-Camera Meetings, information that is marked as "confidential", information obtained by the Member by virtue of their position as a Member that is not in the public domain, or information that is otherwise determined to be confidential by the Chief Administrative Officer, Clerk or as specifically declared by Council.
- e) "Council" means the Council of the Municipality of MARKSTAY-WARREN.
- f) "Ethically" means behaving in a manner characterized by honesty, fairness and equality in interpersonal relationships and with respect for the dignity and rights of other people.
- g) "Family Member" includes:
  - i. A Spouse of the Member;
  - ii. A Child of the Member;
  - iii. A Parent of the Member;
  - iv. A Sibling of the Member, whether by birth, marriage or adoption;
  - v. A Grandchild, grandparent, aunt, uncle, niece or nephew of the Member;
  - vi. A Parent-in-law of the Member; and
  - vii. Any person who lives with the Member on a permanent basis.
- h) "Gift" means any cash or monetary equivalent, fee, object of value, service, personal benefit or advantage, favour, travel and accommodation or entertainment. A gift does not include remuneration.
- i) "Harassment" includes, but is not limited to, engaging in a course of vexatious or unwanted comment or conduct that is known or ought reasonably to be known to be unwanted and includes Sexual Harassment as defined in the *Occupational Health and Safety Act*.

- j) "Member" includes the elected Head of Council, an elected member of Council and all members of Boards and Committees of the Municipality.
- k) "Municipality" means the Municipality of MARKSTAY-WARREN.
- l) "Parent" includes those persons who demonstrated a settled intention to treat as a child the Member, whether or not the Member is their natural child.
- m) "Pecuniary Interest" means an interest of the Member that is financial in nature.
- n) "Spouse" means a person to whom the Member is married or with whom the Member is living in a conjugal relationship outside of marriage.
- o) "Staff" includes anyone employed by the Municipality, including full-time, part-time, temporary, casual or seasonal Staff, contract Staff, students and volunteers. In accordance with the *Municipal Act*, Council Members are not considered employees of the Municipality.

## 6. Standards of Behaviour and Conduct

### 6.1 General Conduct

Members shall:

- a) treat members of the public, one another, and Staff with respect;
- b) ensure their work environment is free from discrimination, Harassment, bullying and intimidation;
- c) conduct themselves according to legislative and policy requirements;
- d) observe decorum and conduct themselves as outlined in the Procedure By-law;
- e) refrain from personal attacks on other Members, Staff, the public, or any other person. f) refrain from speaking in a manner that is discriminatory to any individual based on that person's race, ancestry, creed, gender, sexual orientation, age, colour, marital status, or disability;
- g) acknowledge that only Council as a whole has the capacity to direct Staff including the CAO.

### 6.2 Confidentiality and Use of Information

- a) All information, including documentation or deliberations received, reviewed or taken Closed/In-Camera Meetings is considered Confidential Information, except as otherwise directed by Council;
- b) All information circulated in Closed/In-Camera Meetings whether or not it is marked confidential and/or privileged, shall be returned to the Clerk for destruction;
- c) Members shall not disclose or release by any means to any member of the public either in verbal or written form any Confidential Information acquired by virtue of their office, except when required by law or when authorized by Council or the CAO;
- d) Members shall keep all information that is circulated to Members confidential. Any documentation marked Confidential Information shall be kept securely until no longer

required in the course of Municipal business and shall at that time be destroyed by the Member or returned to the office of the CAO for destruction;

- e) Requests for information should be referred to the Clerk to be addressed in conformity with the *Municipal Freedom of Information and Protection of Privacy Act*;
- f) Members will not use information gained in the execution of their duties that is not available to the general public for any purpose other than as directed by Council;
- g) Members shall not access or attempt to gain access to Confidential Information in the custody of the Municipality unless authorized by Council or the CAO;
- h) The obligation to keep information Confidential applies even if the Member ceases to be a Member for any reason.

### **6.3 Conduct at Meetings**

Every Member shall conduct themselves with decorum and professionalism at all Council, Committee, Board and other meetings in accordance with the provisions of the applicable Procedure By-law, this code, and other applicable law.

### **6.4 Conduct at Public Events**

Members may be requested to make public presentations outside of Council, Committee, Board and other meetings or to attend public events as representatives of the Municipality. At any such event, every Member shall conduct themselves with dignity and decorum, in a manner befitting of a representative of the Municipality.

### **6.5 Conflict of Interest**

6.5.1 Members must be familiar with and comply with the *Municipal Conflict of Interest Act*, as amended. It is the responsibility of each Member, not Staff, to determine whether they have a direct or indirect pecuniary interest with respect to matters arising before Council, a Board or Committee. Each Member shall determine whether he or she has a direct or indirect pecuniary interest and shall at all times comply with the *Municipal Conflict of Interest Act*.

6.5.2 For purposes of this Code of Conduct, a pecuniary interest, direct or indirect, of a Family Member of the Member shall be deemed to also be the pecuniary interest of the Member. All Members shall declare a conflict of interest where they or their Family Member has a pecuniary interest in a matter and shall take all of the actions prescribed in the *Municipal Conflict of Interest Act* as if the Act applied to that interest.

6.5.3 In addition to pecuniary interests, Members must perform their duties impartially, such that an objective, reasonable observer would conclude that the Member is exercising their duties objectively and without undue influence. Each Member shall govern their actions using the following as a guide:

- a) in making decisions, always place the interests of the taxpayers and the Municipality first and, in particular, place those interests before your personal interests and the interests of other Members, staff, friends, business colleagues or Family Members;
- b) interpret the phrase "conflict of interest" broadly and with the objective of making decisions impartially and objectively;

- c) if there is doubt about whether or not a conflict exists, seek the advice of the Integrity Commissioner or legal counsel;
- d) do not make decisions that create an obligation to any other person who will benefit from the decision;
- e) do not make decisions or attempt to influence any other person for the purpose of benefitting yourself, other Members, Staff, friends, business colleagues or Family Members, or any organization that might indirectly benefit such individuals;
- f) do not put yourself in the position where a decision would give preferential treatment to other Members, Staff, friends, business colleagues or Family Members, or any organization that might indirectly benefit such individuals; and

6.5.4 Direct or indirect personal interests do not include:

- a) a benefit that is of general application across the Municipality;
- b) a benefit that affects a Member or his or her Family Members, friends or business colleagues as one of a broad class of persons; or
- c) the remuneration of Council, a Member or benefits available to Council or Members.

6.5.5 Every Member has the following obligations:

- a) to make reasonable inquiries when there is reason to believe that a conflict of interest may exist;
- b) to make Council or the Board or Committee aware of the potential conflict of interest and where appropriate declare the interest;
- c) to refuse to participate in the discussion of Council, the Board or Committee and to not vote on the matter or seek to influence the vote of any other Member where a conflict of interest exists;
- d) to refuse to be involved in any way in the matter once the conflict is identified, including without limitation participating in meetings, facilitating meetings or introductions to Staff or Members or providing advice to any person that would materially advance the matter; and
- e) if the matter which creates the conflict of interest is discussed during a Closed/In-Camera Meeting, the Member may not attend that portion of the closed session where that matter is discussed.

6.5.6 Members shall not borrow money from any person who regularly does business with the Municipality unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

6.5.7 Members shall not act as a paid agent before Council or its committees, agencies or boards.

## **6.6 Gifts, Hospitality & Other Benefits**

6.6.1 The objective of these policies is to ensure that Members make decisions based on impartial and objective assessments of each situation free from the influence of gifts, favours, hospitality or entertainment.

6.6.2 Any stipend paid to a Member is intended to fully remunerate the Member for their service to the Municipality.

6.6.3 Members are prohibited from soliciting, accepting, offering or agreeing to accept any gifts, commissions, hospitality, rewards, advantages or benefits of any kind, personally or through a

Family Member or associate (business or otherwise), that is connected directly or indirectly with the performance of duties of office or could reasonably be construed as being given in anticipation of future, or recognition of past, special consideration by the Member.

6.6.4 This policy does not preclude Members from accepting:

- a) token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee, for speaking at an event or for representing the Municipality at an event;
- b) political contributions that are otherwise offered accepted and reported in accordance with applicable law.
- c) food and beverages at meetings, banquets, receptions, ceremonies or similar events.
- d) food, lodging, transportation, entertainment provided by other levels of governments, by other local governments or by local government boards or commissions;
- e) a stipend from a board or commission that the Member serves on as a result of an appointment by Council;
- f) reimbursement of reasonable expenses incurred in the performance of office;
- g) reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
- h) gifts of a nominal value less than \$25 that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office; and
- i) services provided without compensation by persons volunteering their time for election campaign, provided the services are properly valued in accordance with the *Municipal Elections Act*.

6.6.5 Where it is not possible to decline unauthorized gifts, hospitality or other benefit, Members shall report the matter to the Clerk. The gift shall become the property of the Municipality, and the Clerk may require that the gift be retained by the Municipality or be disposed of for charitable purposes in Council's sole discretion.

6.6.6 Members who have accepted a Gift in accordance with section 6.6.4 shall file a disclosure statement citing the nature of the Gift and the section 6.6.4 exception with the Clerk within 30 days of receipt. The disclosure shall also contain details of the circumstances in which the Gift was received, and the estimated value. The Clerk will report to Council on a monthly basis a summary of Gifts received and the nature of the exceptions.

## **6.7 Interaction with Staff**

6.7.1 Members shall not:

- a) publicly criticize or threaten Staff in any way that questions their professional reputation, competence or credibility;
- b) interfere with Staff or the CAO's performance of their duties;
- c) compel Staff to engage in partisan political activities or be subjected to threats of discrimination for refusing to engage in such activities; or
- d) use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any Staff member with the intent of interfering with Staff duties.

6.7.2 Operational inquiries and complaints received from the public shall be addressed by Members as follows:

- a) Members who are approached by the public with inquiries/complaints regarding operational matters should encourage the party to contact the appropriate department for review/resolution;
- b) where the member of the public is reluctant to contact the department directly, the Member should take the person's name, phone number and details of the inquiry/complaint and advise them that the matter will be referred to the CAO for review/resolution;
- c) members of the public should be encouraged to provide their issue/matters of concern in writing to the appropriate department;
- d) where the inquiry/complaint is not resolved to the satisfaction of the member of the public, the Member shall refer the member of the public to the Municipality's complaint policy for any further action, or place the matter on an agenda to be dealt with by Council or the appropriate Committee.

6.7.3 Members shall recognize and respect that many members of Staff are bound by professional associations to a code of ethics and professional conduct and that they provide their reports and recommendations objectively, in the best interests of the Municipality and within the requirements of their profession.

6.7.4 Council, acting as a whole, can dictate, through the CAO, that Staff perform such duties as are necessary for the efficient management of the affairs of the community, and/or research such matters as the Council deems necessary. Individual Council members do not have authority to direct Staff.

6.7.5 Board and Committee Members do not have the authority to direct Staff, with the limited exception of any Staff member assigned by Council to that Board or Committee. Ultimately, Council retains the discretion to assign, remove and direct Staff who provide assistance to any Board or Committee.

6.7.6 The role of the CAO and Department Heads is to direct the day to day management of the Municipality and assign duties to the Staff placed under their supervision. To encourage the efficient management of the Municipality, individual Members must be cognizant of that fact and comply with the following:

- a) Members will respect and adhere to the policies set by Council, and will under no circumstances take it upon themselves, individually, to circumvent established policies.
- b) Council, as a body, and Members, as individuals, will liaise with the CAO, Treasurer, Department Heads, or Supervisors only. This requirement is not designed to interfere with the normal flow of information with those Staff members (Administrative Assistants, Clerk, Committee Secretaries) who have been assigned the responsibility of providing information to Members such as meeting times, copies of documents, information on standard operating procedures, etc.
- c) Questions or issues surrounding operational concerns or complaints, excluding the basic issues covered in s. 6.7.2 above, should be directed to the Department Head or Supervisor.
- d) Members who still have concerns about operational issues, after addressing them with the Department Head or Supervisor, should raise these concerns with the CAO.
- e) Members who still have concerns about operational issues after addressing them with the CAO should raise these concerns at the appropriate Committee and/or Council.
- f) Should information be required by individual Council Members, a request must be made of the appropriate Department Head, with a copy to the CAO. The Department

Head will either respond directly, with a copy to the CAO or discuss with the CAO on who is the appropriate Staff member to respond, whichever is appropriate. This practice ensures that the CAO is aware of the request and/or that the request is addressed in a timely manner in the event the Department Head is absent or in the case of an urgent matter.

- g) Information requests that are time intensive should be approved by Council.

## 6.8 Expenses

- 6.8.1 Members are required to adhere to any relevant policies, procedures and guidelines with respect to any expenses included in the budget (such as, but not limited to: mileage reimbursement, conference and seminar attendance, and corporate promotional products).
- 6.8.2 Falsifying of receipts or signatures by a Member is a serious breach of this Code of Conduct and the Criminal Code of Canada and could lead to prosecution.

## 6.9 Use of Municipal Property and Resources

- 6.9.1 Members may only use municipal property, equipment, services or supplies of consequence for purposes associated with the discharge of official duties or associated community activities to the extent such resources are not otherwise available to the general public.
- 6.9.2 Members will comply with corporate policies related to the use of municipal assets, including but not limited to municipal vehicles, municipally owned computers, internet and email.
- 6.9.3 Members will not seek or gain personal benefit from municipal services, or from the use of municipally developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Municipality.

## 6.10 Media and Public Communications

- 6.10.1 Information related to decision and resolutions of Council, a Board or Committee, as the case may be, will normally be communicated to the community by the Head of Council (Mayor), the Chair of the Board or Chair of the Committee, as the case may be, or his or her designate.
- 6.10.2 Members will accurately communicate the decisions of Council/Committee/Boards, even if they disagree with the majority decision, and by doing so affirm the respect for and integrity in the decision making process of Council, Committees and Boards. A Member may state that he/she did not support the decision, or voted against the decision, and may give reasons why.
- 6.10.3 Members at all times shall refrain from speculating or reflecting upon the personal motives of other Members of Council or Staff, or being unduly judgmental or critical of other members or of Staff when communicating with the media or the public.

## 7. Municipal Elections

- 7.1 Members of Council must conduct themselves in accordance with the provisions of the *Municipal Elections Act*, in addition to legislation and policies in place during their term of office.

- 7.2 Members of Council shall respect the role of the Clerk and Staff in the election process, shall not interfere with the Clerk or designate's discharge of their duties during the election process, and understand that their role is to ensure that all candidates are treated equally.
- 7.3 The use of municipal resources, both actual municipal property and Staff time, for election-related activity is strictly prohibited. The prohibition applies to both the promotion and opposition to the candidacy of a person for elected office.
- 7.4 Election-related activity applies not only to a Member's personal campaign for office, but also other campaigns for municipal, provincial and federal office.

## 8. Integrity Commissioner-Advice and Complaint Process

### 8.1 Advice

- 8.1.1 Members may request advice or opinions from the Integrity Commissioner with respect to:
- a) the obligations of the Member under the *Municipal Conflict of Interest Act*;
  - b) the obligations of the Member under this Code; and
  - c) the obligations of the Member under a procedure, rule or policy of the Municipality governing the ethical behaviour of the Member.
- 8.1.2 Every request for advice or opinion shall be submitted in writing to the Integrity Commissioner, and the Integrity Commission shall advise the Clerk that a request has been received.
- 8.1.3 The Integrity Commissioner shall not provide to any Member any advice or opinion with respect to the obligations of another Member.
- 8.1.4 Members shall be mindful of the cost to the Municipality to obtain the advice or opinion of the Integrity Commissioner and shall not abuse this entitlement.
- 8.1.5 The advice and opinions received by any Member are personal to the Member and are considered confidential. No opinion or advice may be shared by the Integrity Commissioner without the written permission of the Member who requested the opinion or advice. The Member may grant permission to share part of an opinion or advice, but in circumstances where the member shares only a portion of an opinion or advice the Integrity Commissioner may release all or a part of the opinion or advice without the consent of the Member.
- 8.1.6 Council may require any Member to undertake training with the Integrity Commissioner where Council determines that the Member has requested opinions and advice more frequently than is reasonable in the circumstances. The nature of the training will be to better explain the Member's obligations under this Code of Conduct and the *Municipal Conflict of Interest Act* to enable the Member to govern his or her conduct without seeking advice unnecessarily.

### 8.2 Role of the Integrity Commissioner

- 8.2.1 The Integrity Commissioner shall be appointed by By-law of the Municipality.
- 8.2.2 The Integrity Commissioner shall operate independently of Council in accordance with the authority and powers granted by the Municipal Act and the Public Inquiries Act.
- 8.2.3 The Integrity Commissioner may delegate his or her duties and powers to any person, other than a Member. The delegation shall be in writing, shall be disclosed to the Clerk and shall set out the precise delegation, including the duration of the delegation.

- 8.2.4 Any delegation shall be at the sole discretion of the Integrity Commissioner, provided that the delegate is qualified and capable of independently undertaking the work.
- 8.2.5 The Integrity Commissioner shall make an assessment prior to undertaking any investigation as to whether the complaint gives rise to the need for another entity to undertake an investigation. In those circumstances where the allegations disclose a potential Criminal Code offence or the breach of other legislation (other than the Municipal Conflict of Interest Act), the Integrity Commissioner shall refer the investigation to the appropriate entity and shall not conduct his or her own investigation unless the entity determines that no investigation is required.
- 8.2.6 The Integrity Commissioner shall prepare and submit to Council an Annual Report that shall include at a minimum:
- a) a break-down of costs incurred for the following categories of work performed (advice/investigations/dispute resolution/training);
  - b) a summary of the nature of requests made and the resolution of the matters, without providing any confidential information in the Report; and
  - c) any recommendations for improvements to this Code or processes or any procedure, rule or policy of the Municipality governing the ethical behaviour of the Member.

### **8.3 Informal Complaint Process**

- 8.3.1 Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying behaviour or an activity that they believe violates this Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.
- 8.3.2 Any individual who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of this Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* may address their concerns in the following manner and in accordance with section 8.5:
- a) Advise the Member of their belief that their behaviour or activity contravenes this Code of Conduct or sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act;
  - b) Encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
  - c) If applicable, confirm to the Member the satisfaction or dissatisfaction with his or her response to the concern identified;
  - d) Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter;
  - e) If not satisfied with the response received through the informal process, consider the need to pursue the matter in accordance with the formal complaint through the Integrity Commissioner, as outlined in this Code of Conduct.

### **8.4 Formal Complaint Process**

- 8.4.1 Any individual who has identified or witnessed behaviour or activity by a Member that they believe is in contravention of this Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* may submit a formal complaint to the Clerk of the Municipality in accordance with the following conditions and section 8.5:
- a) All formal complaints must be made using the prescribed complaint form and shall be dated and signed by the complainant.

- b) The complaint must set out reasonable and probable grounds for the allegation that the Member has contravened this Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, list any witnesses, and include any evidence in support of the complaint. The Integrity Commissioner may request additional information from the complainant or other relevant persons prior to making an assessment.
- 8.4.2 If the Commissioner has not completed an investigation before nomination day for a regular election, he or she shall terminate the inquiry on that day.
- 8.4.3 If an inquiry is terminated under section 8.4.2, the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the Integrity Commissioner that the inquiry be re-commenced.
- 8.4.4 The following rules apply during the period of time starting on nomination day for a regular election, and ending on voting day in a regular election (the "Election Period"):
- a) There shall be no requests for an inquiry about whether a Member has contravened this Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*;
  - b) The Commissioner shall not report to Council about whether, in his or her opinion, a Member has contravened this Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*; and
  - c) Council shall not consider whether to impose any penalties on a Member.
- 8.4.5 The Clerk shall forward all complaints to the Integrity Commissioner. The Clerk shall also provide notice to Council by way of confidential internal communication that a complaint has been filed, but no details of the complaint shall be provided other than the fact that a complaint has been received, and whether it is a complaint under this Code of Conduct, the *Municipal Conflict of Interest Act* or other policy.
- 8.4.6 If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation and, where this becomes apparent in the course of an investigation, shall terminate the investigation. The Integrity Commissioner shall communicate this position in writing to the complainant and the Member identified in the complaint.
- 8.4.7 Any person who has reasonable grounds to believe that a Member has breached this Code of Conduct may proceed with a complaint and request an investigation. Complaints must be submitted within ninety (90) days after the alleged violation occurred or the alleged violation came to the attention of the complainant. No complaint may be filed under any circumstances where the alleged violation occurred more than six (6) months prior to the complaint being filed.

## 8.5 Complaints Under the Municipal Conflict of Interest Act

- 8.5.1 Complaints under sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* may only be submitted on or after March 1, 2019 by an elector as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest, by filing the complaint with the Clerk the prescribed form.

- 8.5.2 No complaint under section 8.5.1 may be submitted more than six (6) weeks after the complainant became aware of the alleged contravention.
- 8.5.3 A complaint under sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act may only be submitted in accordance with this section and section 8.4 above.
- 8.5.4 In the event that a complainant becomes aware of the alleged contravention within the period of time starting six (6) weeks before nomination day in an election year, the complainant may submit a complaint within six (6) weeks after the day after voting day, provided that the complainant includes in their written request for an investigation a statutory declaration attesting to the fact that the complainant became aware of the contravention not more than six (6) weeks before the date of the request, or in the case where a complainant became aware of the alleged contravention prior to nomination day, a declaration that the facts were not known to the complainant more than six (6) weeks prior to nomination day.
- 8.5.5 Where an investigation has not been completed before nomination day in an election year, the Integrity Commissioner shall terminate the investigation on that day.
- 8.5.6 An investigation terminated pursuant to subsection 8.5.5 shall not be recommenced unless the person who made the request, or the Member whose conduct is at issue, applies in writing to the Integrity Commissioner to re-commence the investigation within six (6) weeks after voting day.
- 8.5.7 The Integrity Commissioner shall complete the investigation within 90 days of receipt of the complaint, unless the investigation is terminated in accordance with subsection 8.5.5.
- 8.5.8 The Integrity Commissioner may, after completing an investigation, apply to a judge in accordance with the *Municipal Conflict of Interest Act* for a determination under the Act. Prior to making an application to court, the Integrity Commissioner shall present to Council a request to make the application and allow Council to provide recommendations to the Integrity Commissioner as to whether such an application should be made. The Integrity Commissioner is not bound by the advice or recommendation of Council and shall refer the matter to a judge in his or her sole discretion.

## **8.6 Complaints Outside Integrity Commissioner Jurisdiction**

If the complaint is not, on its face, a complaint with respect to non-compliance with this Code of Conduct or the *Municipal Conflict of Interest Act* or the complaint is covered by other legislation or complaint procedure under another policy, the Integrity Commissioner shall refer the complaint to the appropriate entity for investigation, advise the complainant in writing, suspend the investigation until after the matter has been finally disposed of, and report the suspension of the investigation to Council.

## **8.7 Opportunities for Resolution**

Following receipt and review of a formal complaint, or at any time during the investigation, where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued, and both the complainant and the Member agree, efforts may be pursued as per Section 8.3 to achieve an informal resolution at the discretion of the Integrity Commissioner.

## **8.8 Investigation**

- 8.8.1 If a complaint has been identified as being within the Integrity Commissioner's jurisdiction and not rejected in accordance with this Code or the Municipal Conflict of Interest Act, the Integrity Commissioner shall commence an investigation.
- 8.8.2 The Clerk shall inform Council of the Integrity Commissioner's decision to investigate.
- 8.8.3 The Integrity Commissioner shall provide a copy of the complaint and any supporting materials to the Member whose conduct is in question with a request that any response to the allegation(s) be provided in writing to the Integrity Commissioner within ten (10) days.
- 8.8.4 The Integrity Commissioner shall provide a copy of any response from the Member to the complainant with a request for any response to be provided in writing to the Integrity Commissioner within ten (10) days.
- 8.8.5 The Integrity Commissioner shall provide a copy of any response provided by the complainant to the Member with a request for any response to be provided in writing to the Integrity Commissioner within ten (10) days.
- 8.8.6 If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials and may enter any Municipal work location relevant to the complaint for the purpose of investigation and potential resolution and exercise all powers granted by the *Municipal Act* for this purpose.
- 8.8.7 The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation.
- 8.8.8 Reasonable extensions to the above time lines may be granted by the Integrity Commissioner.

## **8.9 Final Report**

- a) The Integrity Commissioner shall report to Council, the Complainant and the Member generally no later than 90 days after the official receipt of the complaint (including a complaint under the *Municipal Conflict of Interest Act*). If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise Council of the date the report will be available.
- b) If during the investigation process, the complaint is resolved, the Integrity Commissioner shall report to Council outlining the findings, the terms of any resolution and any recommended action within thirty (30) days.
- c) If the report of the Integrity Commissioner finds that a breach of the Code has occurred, the Integrity Commissioner shall report his or her findings to Council, including a recommendation as to the imposition of a penalty or sanction.
- d) If the report of the Integrity Commissioner finds that there has been no breach of the Code, or that a breach occurred, however, the Member took all reasonable measures to prevent it, or the breach committed was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall set this out in a report to Council, the Member involved and to the complainant.

- e) Where a Member has sought and followed advice from the Integrity Commissioner and is subsequently the subject of a complaint, the Integrity Commissioner may refer to the earlier advice and, provided that the facts as set out in the earlier advice are still applicable, determine in a summary manner that there has been no breach of this Code of Conduct or the *Municipal Conflict of Interest Act*.
- f) Council shall consider the report of the Integrity Commissioner within thirty (30) days of it being received by the Clerk and shall take action it considers appropriate with regard to the recommendations of the Integrity Commissioner.

#### **8.10 Confidentiality of Complaint Documents**

- a) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol.
- b) The Integrity Commissioner shall retain all records related to the complaint and investigation.
- c) The Clerk shall ensure confidentiality is maintained during and after the Integrity Commissioner's investigation, with the limited exception of the Integrity Commissioner's Report, which shall be made public as directed by Council.

#### **8.11 Enforcement and Sanctions**

8.11.1 Every Member shall comply with this Code of Conduct and sections 5. 5.1 and 5.2 the *Municipal Conflict of Interest Act* . Breaches may be investigated by the Integrity Commissioner in accordance with this Code, the *Municipal Act* and the *Municipal Conflict of Interest Act*, and Council shall determine whether to impose any penalty or sanction on a Member found to have breached any provision of this Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

8.11.2 Every Member shall cooperate with an investigation carried out by the Integrity Commissioner.

8.11.3 The *Municipal Act* authorizes Council to impose one or more of the penalties listed below, if so desired, on a Member that has contravened this Code of Conduct or sections 5. 5.1 or 5.2 of the *Municipal Conflict of Interest Act*:

- 1) A reprimand;
- 2) Suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council or local board, as the case may be for a period of up to 90 days.

8.11.4 The Integrity Commissioner may also recommend that Council impose one of the following additional actions:

- a) Written or verbal public apology;
- b) Removal from membership of a Committee or Board.
- c) Removal as Chair of a Committee or Board.
- d) Ask the Member to repay or reimburse the compensation received.

- e) Ask the Member to return property or reimburse for the value of it.
- f) Any other fair and reasonable sanction given the circumstances.

#### 8.12 Fees

8.12.1 Every complaint must be accompanied by the administrative prescribed fee in the amount of \$150.00.

8.12.2 In the event that the Integrity Commissioner determines that a complaint is frivolous, vexatious or does not disclose a breach of this Code of Conduct or the *Municipal Conflict of Interest Act*, at any point after the submission of the complaint, the complainant shall forfeit the fee. If the result of the complaint is a negotiated resolution or a finding that the Member breached this Code of Conduct or the *Municipal Conflict of Interest Act*, the fee shall be refunded based on the recommendation of the Integrity Commissioner.

### 9. Acknowledgement of Understanding and Compliance with this Code of Conduct

The undersigned Member of Council, Committee, and/or Board of the Municipality of MARKSTAY-WARREN hereby acknowledges receipt of a copy of the Council Code of Conduct By-law No. 2019-01 and agrees to abide by its contents. The Member also acknowledges this form will be kept on file with the Municipality of MARKSTAY-WARREN, and a copy of this signed form was retained by the Member themselves.

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Printed Name of Member

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Signature of Member

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Date

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Signature of Clerk or designate (as witness)

## Code of Conduct Formal Complaint Form and Affidavit

|                         |           |              |
|-------------------------|-----------|--------------|
| Complainant Information |           |              |
| Name:                   |           |              |
| Mailing Address:        |           |              |
| City:                   | Province: | Postal Code: |
| Home Telephone:         |           | Cell Number: |
| Email address:          |           |              |

Please note that it is an offence under the Criminal Code of Canada to knowingly swear/affirm a false affidavit.

I, \_\_\_\_\_ (full name) of the  
\_\_\_\_\_ (municipality of residence) in the  
Province of Ontario make oath and say (or affirm):

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

\_\_\_\_\_

\_\_\_\_\_

2. I have reasonable and probable grounds to believe that: (specify name of Member)

\_\_\_\_\_ has contravened section \_\_\_\_\_ (specify section(s)) of the Code of  
Conduct for Members of Council. The particulars are as follows: (Please provide information such as  
date, time and location of conduct, names of all persons involved, including witnesses, and  
information as to how they can be reached. Attach additional pages if necessary.):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. This affidavit is made for the purpose of requesting that this matter be investigated and for  
no improper purpose.

SWORN (or AFFIRMED) before me at the (Town, Municipality, etc)

\_\_\_\_\_ in the Province of Ontario on the \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_

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

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

## Municipal Conflict of Interest Act Complaint Form and Affidavit

|                         |              |              |
|-------------------------|--------------|--------------|
| Complainant Information |              |              |
| Name:                   |              |              |
| Mailing Address:        |              |              |
| City:                   | Province:    | Postal Code: |
| Home Telephone:         | Cell Number: |              |
| Email address:          |              |              |

Please note that it is an offence under the Criminal Code of Canada to knowingly swear/affirm a false affidavit.

I, \_\_\_\_\_ (full name) of the  
 \_\_\_\_\_ (municipality of residence) in the  
 Province of Ontario make oath and say (or affirm):

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

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2. I have reasonable and probable grounds to believe that: (specify name of Member)

\_\_\_\_\_ has contravened section(s) \_\_\_\_\_ (specify section(s)) of the  
*Municipal Conflict of Interest Act* -i.e. section 5, 5.1 and/or 5.2). The particulars are as follows:  
 (Please provide information such as date, time and location of conduct, names of all persons involved,  
 including witnesses, and information as to how they can be reached. Attach additional pages if  
 necessary.):

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3. This affidavit is made for the purpose of requesting that this matter be investigated and for  
 no Improper purpose.

SWORN (or AFFIRMED) before me at the (Town, Municipality, etc)

\_\_\_\_\_ in the Province of Ontario on the \_\_\_\_\_ day  
 of \_\_\_\_\_, 20\_\_\_\_

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

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