



CITY OF ST. CATHARINES

Code of Conduct for Elected Officials, Local Boards and Advisory Committees

PREAMBLE

A written Code of Conduct reinforces the City of St. Catharines's Accountability and Transparency Policy and other relevant legislation within which all members of Council, local boards and advisory committees must operate. It ensures that those members share a common integrity base and through adherence to its principles, the Code of Conduct serves to enhance public trust.

The key principles that underline the Code of Conduct are as follows:

- all members to whom this Code of Conduct applies shall serve in a conscientious and diligent manner;
- members are expected to perform their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest;
- members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;
- members are responsible for making honest statements and no member shall make a statement when they know that statement is false, or with the intent to mislead other members or the public; and,
- members are expected to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and St. Catharines City Council.

PART 1

ROLES AND RESPONSIBILITIES

This Code of Conduct operates along with and as a supplement to the existing statutes governing conduct. This Code is intended to be read in conjunction with and is not deemed to supersede any City by-law and policies as passed or approved from time to time. Five primary pieces of Federal and Provincial legislation govern the conduct of members of Council, those being:

- the *Criminal Code of Canada*;

- the *Municipal Conflict of Interest Act*, as amended;
- the *Municipal Elections Act, 1996*, as amended;
- the *Municipal Freedom of Information and Protection of Privacy Act*, and,
- the *Municipal Act, 2001*, as amended.

Part VI (Practices & Procedures) of the *Municipal Act, 2001* prescribes the following as the roles of a municipal council, the head of council and the head of council as chief executive officer:

It is the role of council:

- to represent the public and to consider the well-being and interests of the municipality;
- to develop and evaluate the policies and programs of the municipality;
- to determine which services the municipality provides;
- to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- to maintain the financial integrity of the municipality; and,
- to carry out the duties of council under this or any other Act.

It is the role of the head of council:

- to act as chief executive officer (CEO) of the municipality;
- to preside over council meetings so that its business can be carried out efficiently and effectively;
- to provide leadership to the council;
- to provide information and recommendations to the council with respect to the role of council described in Sections 224.(d) and (d.1) of the *Municipal Act, 2001*;
- to represent the municipality at official functions; and,
- to carry out the duties of the head of council under this or any other Act.

As chief executive officer of a municipality, the head of council shall,

- uphold and promote the purposes of the municipality;
- promote public involvement in the municipality's activities;
- act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and,
- participate in and foster activities that enhance the economic, social, cultural and environmental well-being of the municipality and its residents.

DEFINITIONS

“Code of Conduct” - shall mean the City of St. Catharines Code of Conduct for Members of Council, Local Boards and Advisory Committees.

“Complaint” - shall mean a written allegation of a purported contravention of the Code of Conduct.

“Frivolous” - shall mean of little or no weight, worth, or importance; not worthy of serious notice.

“Good faith” - shall mean accordance with standards of honesty, trust, sincerity.

“Integrity Commissioner” - shall mean the Integrity Commissioner appointed by the Council of the City of St. Catharines to provide independent and consistent complaint investigation and resolution, respecting the application of the Code of Conduct.

“Immediate relative” - shall mean a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law as well as step-relationships; spouse shall mean the person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage.

“Lobby” – shall mean to solicit or try to influence the votes of members of a legislative body.

“Lobbyist” - shall mean a person who tries to influence legislation on behalf of a special interest; a member of a lobby.

Local Board shall have the same meaning as provided in the Municipal Act.

“Member” –shall mean Member of Council or Local Board or Advisory Committee

“Private advantage” - for the purposes of the Code of Conduct private advantage does not include a matter:

- a) that is of general application or considered to be an interest in common generally with the electors within the jurisdiction of an area; or,
- b) that concerns the remuneration or benefits of a member of Council.

“Vexatious” - shall mean instituted without sufficient grounds and serving only to cause annoyance to the person being complained of; troublesome; annoying; a vexatious situation.

PART 2

APPLICATION

Part 2 of the Code of Conduct shall apply to all members of Council and local boards. In recognizing that advisory committees are comprised largely of citizen volunteers from across the City of St. Catharines who have been appointed by Council to provide special advice and expertise; some of the provisions outlined in Part 2 may not be applicable to those members.

BUSINESS RELATIONS

No member shall act as a lobbyist before Council, its committees, or an agency, board or commission of the City except in compliance with the terms of the *Municipal Conflict of Interest Act*. A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

This does not prohibit activities in which a member would normally engage on behalf of constituents in accordance with the duties of their office.

CONDUCT AT MEETINGS

At all meetings members shall conduct themselves with decorum in accordance with the provisions of *St. Catharines Municipal Procedural By-law*. Respect for delegations, fellow members and staff requires that all members show courtesy and not distract from the business of the City during presentations and when other members have the floor.

CONDUCT OF A POLITICAL NATURE

No member shall use City facilities, services, or property for his / her election or re-election campaign. No member shall use the services of City employees for his / her election or re-election campaign, during hours in which the employees are in the paid employment of the City.

CONDUCT RESPECTING STAFF

Only Council as a whole has the authority to approve budgets, policies, committee processes and other such matters. Therefore, with the exception of the head of council's duties as the CEO, members are not permitted to individually direct the actions of staff, except as authorized by Council. Members shall be respectful of the fact that staff work for the City as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective, without undue influence from any individual member or group of members. Members shall be respectful of the fact that staff carry out directions of Council and administer the policies of the municipality, and are required to do so without any undue influence from any individual member or group of members. 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 the staff of the City of St. Catharines.

Council as a whole directs the business of the City and passes by-laws, or resolutions as appropriate, for decisions adopted by Council. The Municipal Act, Section 229 defines the role of the Chief Administrative Officer (CAO) for the administration of the affairs of the City in accordance with the decisions adopted by Council. This means that under the direction

of the CAO, staff have the responsibility and the authority to provide consultation, advice and direction to Council and to implement Council approved policy. To fulfill this role, staff establishes the appropriate administrative policies, systems, structures and internal controls to implement the goals and objectives of Council, and to manage implementation within the resources at their disposal. Council therefore should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalties of persons in power, or their personal opinions.

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. Nor shall any member 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.

CONDUCT WHILE REPRESENTING THE CITY

Members shall make every effort to participate diligently in the activities of the agencies, boards, committees and commissions to which they are appointed.

CONFIDENTIAL INFORMATION

Pursuant to and authorized under Section 239 of the *Municipal Act, 2001*, where a matter discussed at an in-camera (closed) meeting must remain confidential, no member shall disclose the content of that matter, or the substance of the deliberations of an in-camera meeting. Members shall not permit any persons, other than those who are entitled thereto, to have access to confidential information. 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 to do so by law.

Particular care should be exercised in ensuring the confidentiality of the following types of information:

- personnel matters about an identifiable individual, including municipal or local board employees;
- a proposed or pending acquisition or disposition of land by the municipality or local board;
- labour relations or employee negotiations;
- litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
- items under negotiation, or personnel matters;
- information that infringes on the rights of others (e.g. sources of complaints where the identity of a complainant is given in confidence);

- price schedules in contract tender or Request For Proposal submissions if so specified;
- information deemed to be “personal information” under the *Municipal Freedom of Information and Protection of Privacy Act*;
- other information required by law not to be released; and,
- any and all statements that have been provided in confidence.

The above list is provided as an example and is not exclusive. If Council receives requests for information it should be referred to appropriate staff to be addressed as either an informal request for access to municipal records, or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

DISCREDITABLE CONDUCT

Harassment may be defined as any behaviour by any person that is directed at or is offensive to another person on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, disability, sexual orientation, marital status, or family status and any other grounds identified under the *Ontario Human Rights Code*.

All members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work, committee and board environment is free from discrimination and harassment. The *Ontario Human Rights Code* and the City of St. Catharines *Harassment and Discrimination Policy* applies to Council.

FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES

A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by St. Catharines City Council. More generally, members are required to observe the terms of all policies and procedures established by Council. However, this provision does not prevent a member from requesting that Council grant an exemption from a policy, other than this Code of Conduct.

GIFTS AND BENEFITS

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his / her duties of office, unless permitted by the exceptions listed below. Notwithstanding the exceptions listed, no member shall accept monies or any instrument that can be converted into monies unless authorized by law. For these purposes, a fee or advance paid to, or a gift or benefit provided by a third party with the member’s knowledge to a member’s spouse, child (who is under the age of 18 years), is deemed to be a gift to that member.

The following are recognized as exceptions:

- a) compensation authorized by by-law;

- b) 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;
- 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; and, by the Federal government or the government of a foreign country;
- g) food, beverages and / or admission fees provided for banquets, receptions or similar events, if:
 - i. attendance is resultant to protocol or social obligations that accompanies the responsibility of office; and,
 - ii. the person extending the invitation or a representative of the organization is in attendance;
- h) communication to the offices of a member, including subscriptions to newspapers and periodicals.

In the case of categories **(b) (e) (f) (g)** and **(h)**, if the value of the gift or benefit exceeds \$300, or if the total value received from any one source over any 12 month period exceeds \$500, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Office of the City Clerk.

The disclosure statement must indicate:

1. the nature of the gift or benefit;
2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;
5. what the recipient intends to do with the gift; and,
6. whether any gift will at any point be left with the City.

All disclosure statements shall be a matter of public record.

IMPROPER USE OF INFLUENCE

No member shall use the influence of his / her office for any purpose other than for the exercise of his / her official duties. No member shall seek or obtain by reason of his / her office any personal privilege or private advantage with respect to City services not otherwise available to the general public and not consequent to his / her official duties.

Examples of prohibited conduct are the use of one's status to improperly influence the decision of another person to the private advantage of oneself, or one's immediate relative,

staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence in return for present actions or inaction.

USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES

Elected and appointed officials shall not make use of any property or assets of the City for their personal gain. In addition, they are accountable for ensuring that any City property in their care as part of their duties is properly secured and protected at all times.

Corporate issued equipment such as computers, cell phones, blackberries and the internet system may be used for personal purposes provided the use complies with the following:

Prohibited Uses

- 1) Under no circumstances should the Corporation internet access be used to access or download material that is of a defamatory, obscene, offensive, or sexual nature. (Prohibited material on the e-mail and internet system includes, but is not limited to, transmission or downloading of defamatory, obscene, offensive or harassing messages, or messages that disclose personal information without authorization.)
- 2) Use of the e-mail system to engage in sporting pools, distribution of graphically offensive material, etc., is prohibited.
- 3) Should you receive an e-mail containing inappropriate material which is defamatory, obscene, offensive, or harassing from any source, the e-mail should be deleted and not forwarded to anyone else either inside or outside the Corporation.

No elected or appointed official shall sell, transfer, publish, disclose, display or otherwise make available computer programs, purchased software programs, technological innovations, or other intangible property or rights owned, or used, by the City. All such property or rights, and any printed or computer records prepared or provided to the elected or appointed official in performing their duties will remain the exclusive property of the City.

PART 3

COMPLAINT PROTOCOL

The complaint protocol shall not retroactively apply to any alleged transgressions occurring prior to the date on which the Code of Conduct was formally adopted by Council. Boards and committees will follow this Code in the immediate term of Council after it is adopted

INTEGRITY COMMISSIONER

Pursuant to Section 223.3 of the *Municipal Act, 2001*, the City of St. Catharines shall appoint an Integrity Commissioner who reports to Council and is responsible for performing the following duties in an independent and consistent manner:

- (i) Investigation: having the power to assess and investigate formal written complaints respecting alleged contraventions of the Code of Conduct;
- (ii) Inquiry: determining whether a member of Council or local board has in fact violated a protocol, by-law or policy governing their ethical behaviour; with the final decision making authority resting with Council as to whether the recommendation(s) of the Integrity Commissioner should be imposed; and,
- (iii) Annual Reporting: providing Council, through the City Clerk, with an annual report of complaints.

INFORMAL COMPLAINT PROCEDURE

Individuals (for example, municipal employees, members of the public, members of Council or local boards) or organizations, who have identified or witnessed behaviour or an activity by a member of Council, local board or advisory committee that they believe is in contravention of the Code of Conduct could address the prohibited behaviour or activity themselves as follows:

- (1) advise the member that their behaviour or activity appears to contravene the Code of Conduct;
- (2) encourage the member to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) if applicable, confirm to the member satisfaction with the response received; or advise the member of dissatisfaction with the response;
- (5) consider the need to pursue the matter in accordance with the formal complaint procedure, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. A person is not required to undertake the informal complaint procedure prior to pursuing the formal complaint procedure.

FORMAL COMPLAINT PROCEDURE

1. Application

- (1) All the provisions of this Section apply to a request for an inquiry from an individual or an organization other than a local board or Council as a whole.
- (2) Subsection 1(1) does not preclude individual members of Council or individual members of a local board from filing a formal written complaint.

(3) Sections 5 to 11, except Subsections 6(1)(b) and 7(3), apply to a request for an inquiry made by a local board or Council as a whole.

2. Complaint

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

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

(3) A complaint shall identify the alleged breach and set out reasonable and probable grounds for the allegation that the member has contravened the Code of Conduct and includes a supporting affidavit that sets out the evidence in support of the complaint.

3. File with Clerk

(1) The request for an investigation shall be filed with the City Clerk who shall forward the matter to the Integrity Commissioner for initial review to determine if the matter is, on its face, a complaint with respect to non-compliance of the Code of Conduct; and not covered by other legislation or other Council policies as described in Subsection 3(3).

Deferral

(2) If the complaint does not include a supporting affidavit, the Integrity Commissioner may defer the review and classification until an affidavit is received.

(3) If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall instruct the City Clerk to advise the complainant in writing as follows:

- a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if they wish to pursue any such allegation, they must pursue it with the appropriate police force;
- b) if the complaint on its face is with respect to non-compliance with the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with their own legal counsel;
- c) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred to Legal Services for review;
- d) if the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and,

- e) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

Reports

(4) The Integrity Commissioner may report to Council or a local board that a specific complaint is not within the jurisdiction of the Integrity Commissioner.

(5) The Integrity Commissioner shall report annually to Council on all complaints. This will include complaints not within the jurisdiction of the Integrity Commissioner, but for these complaints the Integrity Commissioner shall not disclose information that could identify a person concerned.

(6) Should no complaints be received within a calendar year, the Clerk shall report to Council accordingly and no annual report shall be made by the Integrity Commissioner.

4. Refusal to Conduct Investigation

(1) 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, or, where that becomes apparent in the course of an investigation, terminate the investigation.

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

(3) Other than in exceptional circumstances, the Integrity Commissioner will not report to Council or a local board on any complaint described in Subsections 4(1) and 4(2) except as part of an annual or other periodic report.

(4) The Integrity Commissioner will inform the Clerk when an investigation is terminated or not advanced for reason cited above. The Clerk in turn will notify the complainant of this decision.

5. Investigation

(1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under Section 4, the Integrity Commissioner shall investigate and may attempt to settle the complaint.

Public Inquiries Act

(2) Under Section 223.4(2) of the *Municipal Act, 2001*, the Integrity Commissioner may elect to investigate a complaint by exercising the powers of a commission under Parts I and II of the *Public Inquiries Act*.

(3) When the *Public Inquiries Act* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this complaint protocol, but, if there is a conflict between a provision of the complaint protocol and a provision of the *Public Inquiries Act*, the provisions of the *Public Inquiries Act* prevail.

Complaint - Gifts and Benefits

(4) Upon receiving a formal written complaint, not deemed to be frivolous or vexatious, that a gift or benefit was received contrary to the conditions set out herein, the Integrity Commissioner shall examine the disclosure statement to ascertain whether the receipt of the gift or benefit might, in his / 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 / she shall call upon the member to justify receipt of the gift or benefit.

(5) Should the Integrity Commissioner determine that receipt of the gift or benefit was inappropriate, he / she may make recommendations for Council on potential ways of dealing with the complaint.

6. Opportunity to Comment

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

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

(2) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in Section 223.4(2) of the *Municipal Act, 2001* and may enter any municipal or local board work location relevant to the complaint for the purposes of investigation and settlement.

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

Interim Reports

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

7. Final Report

(1) The Integrity Commissioner shall report the general findings of his / her investigation to the complainant and the member no later than 90 days after the making of the complaint. That report shall indicate when the Integrity Commissioner anticipates presenting his / her recommendation(s) for Council's consideration.

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

(3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council or the local board except as part of an annual or other periodic report.

Lawful recommendations

(4) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.

(5) Section 223.4 (5) of the *Municipal Act, 2001* authorizes Council to impose either of two penalties on a member of Council or local board following a report by the Integrity Commissioner that, in his / her opinion, there has been a violation of the Code of Conduct:

- a) a reprimand; or,
- b) 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.

The Integrity Commissioner shall as part of his/her additional duties make recommendations to Council or a local board to improve accountability and transparency.

8. Member not Blameworthy

If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

9. Report to Council

The City Clerk shall process the Integrity Commissioner's report for the next meeting of Council or local board, or both. Said report shall remain confidential until the matter has

received complete and final disposition by the Integrity Commissioner and has been reported out to the members of Council through the City Clerk.

10. Duty of Council / Local Board

Council or a local board shall consider and respond to the report within 90 days after the day the report is laid before it. Once a decision is made by Council it shall be deemed final for all intents and purposes pertaining to this Code of Conduct.

11. No Complaints or Reports Prior to Election

No complaint may be referred to the Integrity Commissioner or forwarded by the Clerk for review and /or investigation after May 31 in any year in which a regular municipal election will be held. The Clerk shall forward any complaint received after May 31 to the Integrity Commissioner on December 1 in a regular election year and advise the complainant of this process.

Notwithstanding Section 7 of the Code, the Integrity Commissioner shall not make any report to Council or any other person after the last Council meeting in May in any year in which a regular municipal election is to be held. Any reports would proceed to the first Council meeting held after the inaugural meeting of the new Council.

12. Confidentiality

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

- a) the Integrity Commissioner and every person acting under her / his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding or in accordance with the provisions of Section 223.5(1) of the *Municipal Act, 2001*.
- b) pursuant to Section 223.5(3) of the *Municipal Act, 2001*, this Section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.
- c) if the Integrity Commissioner reports to the municipality or to a local board his / her opinion about whether a member of Council, a local board or advisory committee has contravened the applicable Code of Conduct, the Integrity Commissioner may disclose in the report such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.
- d) the municipality and each local board shall ensure that reports received from the Integrity Commissioner by the municipality or by the board, as the case may be, are made available to the public upon the matter being reported out to the members of Council. Neither the Integrity Commissioner nor any person acting under the instructions of the Integrity Commissioner is a competent or

compellable witness in a civil proceeding in connection with anything done under this Part.

- e) if the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code of Canada*, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council through the City Clerk.

13. Integrity Commissioner Vacancy

Should the office of Integrity Commissioner become vacant, the Code of Conduct remains in effect and all members shall abide by the provisions set out therein. When a vacancy occurs, all formal complaints shall be held in abeyance until such time as a new Integrity Commissioner has been appointed; or an interim measure enacted to enable the complaint to be addressed within a reasonable amount of time. For example the City could engage the services of an Integrity Commissioner from another local municipality as a potential interim measure.

PART 4

REPRISALS AND OBSTRUCTION

Members shall respect the integrity of the Code of Conduct and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner in the carrying out of his / her responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.