

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO AMEND BY-LAW 120-2010, THE PROCEDURAL BY-LAW
TO REPEAL AND REPLACE APPENDIX “A” (CODE OF CONDUCT)

WHEREAS subsection 238(2) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, provides that every municipality shall pass a procedure by-law for governing the calling, place and proceedings of meetings;

WHEREAS subsection 223.2(1) of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended, provides that a municipality shall establish codes of conduct for members of the council of the municipality and of its local boards;

WHEREAS Regional Council desires to set a high standard of conduct for Members of Council and Local Boards in order to provide good governance and a high level of public confidence in the administration of the Region and its Local Board(s) by its Members as duly elected public representatives or appointees to ensure that they each operate from a foundation of integrity, justice, truth, honesty and courtesy;

WHEREAS Regional Council deems it advisable to amend By-law 120-2010, being The Procedural By-law, to repeal and replace Appendix “A” (Code of Conduct for Members of Council) and to establish a complaint protocol attached to Appendix “A” as Appendix 1.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That section 15.1 of By-law 120-2010, being The Procedural By-law be deleted and replaced with the following:

A code of conduct setting out standards for acceptable conduct by Members of Council and Local Boards is set out in Appendix “A” to this By-law.

2. That Appendix “A” (Code of Conduct for Members of Council) referred to in Section 15.1 of By-law 120-2010, being The Procedural By-law be repealed and replaced with Appendix “A” (Code of Conduct for Members of Council and Local Boards) attached to this by-law.

3. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date> by a vote of 2/3 of the members present

APPENDIX “A”**THE REGIONAL MUNICIPALITY OF NIAGARA
CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND
LOCAL BOARDS****1.0 Application**

- 1.1 This Code of Conduct is established in accordance with section 223.2 of the Municipal Act and applies to Members of the Council of Niagara Region, including the Regional Chair and to Members of Local Board(s).
- 1.2 The Niagara Region is well respected by the general public, clients, employees, elected officials, suppliers, communities and governments and the purpose of this Code of Conduct is to establish a general standard to provide a common basis for the acceptable conduct of Members and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedural By-law and other sources of applicable law, including but not limited to:
- *Municipal Act*
 - *Municipal Conflict of Interest Act*
 - *Municipal Elections Act*
 - *Municipal Freedom of Information and Protection of Privacy Act*
 - *Human Rights Code*
 - *Occupational Health and Safety Act*
 - *Provincial Offences Act*
 - *Criminal Code*
 - By-laws and policies of Niagara Region and of its Local Board(s) as applicable, and as may be adopted and amended from time to time.

2.0 Statement of Principles

- 2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the

administration of the Region and its Local Board(s) by its Members as duly elected public representatives or appointees to ensure that they each operate from a foundation of integrity, justice, truth, honesty and courtesy.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office or appointment and act without self-interest;
- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
- Members shall be cognizant that they are at all times representatives of the Region, its Local Board(s) and of Council, as applicable, and shall recognize the importance of their duties and responsibilities, take into account the public character of their function, and always maintain and promote the public trust in the Region and its Local Board(s); and
- Members will uphold the laws of Canada, Ontario and the laws and policies adopted by Council from time to time.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) “CAO” means the Chief Administrative Officer of the Region;
- (b) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (c) “Chair” means the Regional Chair;
- (d) “confidential information” means information or records that are in the possession, in the custody or under the control of the Region and/or its Local Board(s) that the Region is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-

law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;

- (e) “conflict of interest” means a situation in which a Member has competing interests or loyalties between the Member’s personal or private interests and his or her public interests as an elected representative or appointee such that it might influence his or her decision in a particular a matter;
- (f) “Council” means the Regional Council for Niagara Region;
- (g) “fiduciary” means the obligation of a person in a position of authority to act on behalf of another, assuming a duty to act in good faith and with care, candour and loyalty in fulfilling this obligation;
- (h) “frivolous” includes something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense;
- (i) “Local Board” means a local board of the Region as defined in section 223.1 of the *Municipal Act*, including the Niagara Transit Commission;
- (j) “Member” means a Member of the Council for the Region or a Member of a Local Board;
- (k) “non-pecuniary interest” means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member’s decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (l) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (m) “Region” means The Regional Municipality of Niagara;
- (n) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (o) “staff” means the CAO and all commissioners, officers, directors, managers, supervisors and all non-union and union staff of the Region and the Region’s Local Boards, whether full-time, part-time, contract,

seasonal or volunteer, as well as agents and consultants acting in furtherance of the Region's and/or the Region's Local Board's business and interest;

- (p) "vexatious" includes something that is instituted without sufficient grounds and serving only to cause annoyance, frustration or worry.

4.0 Responsibilities of Council and its Local Board(s)

- 4.1 Council and its Local Board(s) are responsible for and dedicated to providing good and effective government for the public in the region in an open, accountable and transparent manner.

5.0 General Obligations

- 5.1 In carrying out their duties, Members shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council, Local Board or any committee and in accordance with the Region's Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) respect the individual rights, values, beliefs and personality traits of any other person and refrain from imposing their own personal moral and religious beliefs on others;
- (e) refrain from making statements known to be false or with the intent to mislead Council, other Members or the public;
- (f) accurately communicate the decisions of Council and its Local Board(s) and respect the decision-making process even if they disagree with the ultimate determinations and rulings; and
- (g) refrain from making disparaging comments about another Member or unfounded and speculative accusations about the motives of another Member.

6.0 The Role of Staff

- 6.1 Council as a whole approves the budget, policies and governance of the Region through its by-laws and resolutions. Individual Members do not direct or oversee the functions of the staff of the Region or any of its Local Boards.
- 6.2 Staff employed by the Region and its Local Board(s) work under the direction of the CAO or the senior staff leader of the Local Board, as applicable. Inquiries of staff from Members should be directed to the CAO or to the appropriate senior staff leader of the Local Board as applicable. Members shall not publicly criticize staff. Should a Member have any issue with respect to staff, such issue shall be referred to the CAO or senior staff leader of the Local Board, as applicable who will direct the matter to the particular staff member's appropriate superior.
- 6.3 Members shall respect the role of staff in the administration of the business affairs of the Region and any of its Local Board(s). Members shall respect that staff:
- (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
 - (b) work within the business and legal affairs of the Region and any of its Local Board(s) and Members must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of those affairs and, therefore, Members shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and
 - (c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

7.0 Regional or Board Property

- 7.1 The community places its trust in Council and its Local Board(s) and those it appoints to make decisions for the public good as custodians of these public assets.

- 7.2 By virtue of their office or appointment, Members must not use or permit the use of the Region's or Local Board's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Region or its Local Board(s). No Member shall seek financial gain for themselves, family or friends from the use or sale of intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held or owned by the Region or its Local Board(s), as applicable.

8.0 Gifts and Benefits

- 8.1 Gifts to Members risk the appearance of improper influence. Gifts may improperly induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Region or Local Board, as applicable. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality or any form of personal benefit connected directly or indirectly with the performance of their duties. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, 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. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.
- 8.2 For greater clarity, Members shall not accept any gift or benefits in their public capacity other than in the following circumstances:
- (a) compensation authorized by law;
 - (b) such gifts or benefits that normally accompany the responsibilities of office or appointment 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;
 - (d) services provided without compensation by persons volunteering their time;
 - (e) a suitable token, memento or souvenir received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or appointment or at a function honouring the Member;
 - (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or

by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;

- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate purpose related to the normal business of the Region or its Local Board(s),
 - (ii) the person extending the invitation or a representative of the organization is in attendance, and
 - (iii) the value is reasonable and the invitations are infrequent;
- (h) gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and
- (i) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.
- (j) except in the case of any gift or benefit described in (c) and (d), the total value of a gift or benefit from any one source over any 12 month period shall not exceed \$500.

9.0 Confidentiality

- 9.1 Members receive confidential information from a number of sources as part of their work. This includes information received in confidence by the Region or its Local Board(s) that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council or its Local Board(s). Members shall comply with applicable policies related to confidentiality and access to information.
- 9.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting and the Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. A Member shall not, either directly or indirectly, release, make public or in any way divulge or discuss any such

information or any confidential aspect of the closed deliberations to or with, anyone, unless authorized by Council or its Local Board(s), as applicable or as required by law. This is not intended to prohibit necessary communications with other Members or staff as to what took place during closed deliberations they were not present at.

- 9.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Region or its Local Board(s) that is relevant to matters before the Council, Local Board or committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Region and must follow the same processes as any private citizen to obtain such information.
- 9.4 Members shall not release information subject to the Region's or Local Board's solicitor-client privilege, unless expressly authorized by Council, or the Local Board or as required by law.
- 9.5 Members shall not misuse confidential information in any way or manner such that it may cause detriment to the Region, Council, Local Board or any other person, or will benefit themselves or others.
- 9.6 Members shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, Regional policies, procedures and rules, ethical standards and, where appropriate, professional standards.

10.0 Discrimination and Harassment

- 10.1 Members shall treat all members of the public, another Member and staff with respect and without abuse, bullying or intimidation and ensure that their work environment at the Region and its Local Board(s) is free from discrimination and harassment.
- 10.2 Members shall not use indecent, abusive or insulting words, phrases or expressions toward any member of the public, another Member or staff. Members shall not make an expression in any manner that is discriminatory to any individual based on the individual's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability.

11.0 Improper Use of Influence

- 11.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.
- 11.2 Members shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.
- 11.3 Members who are asked to support charitable activities within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

12.0 Conflicts of Interest

- 12.1 Members shall avoid conflicts of interest, both pecuniary and non-pecuniary. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Region, its elected officials or appointees. Members are encouraged to seek guidance from the Integrity Commissioner and/or legal advisors when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary.

13.0 Council Policies and Procedures

- 13.1 Members shall strictly observe and adhere to the policies, procedures and rules established by Council and/or its Local Board(s), as applicable.

14.0 Election Activity

- 14.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996*, and any applicable policies. The use of resources of the Region and its Local Board(s), both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the

Member's campaign and any other election campaigns for municipal, provincial or federal office.

15.0 Respect for the Code of Conduct

- 15.1 Members shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Region or its Local Board(s), as applicable. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. Members shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.
- 15.2 Members shall cooperate with requests for information during any investigations or inquiries under the Code. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code or any process for complaints adopted by the Region.

16.0 Penalties for Non-Compliance with the Code of Conduct

- 16.1 Where Council or a Local Board receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council or the Local Board, as applicable may impose, in accordance with the Municipal Act, 2001, the following penalties on the Member:
- (a) a reprimand; or
 - (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to 90 days.

17.0 Complaint Protocol

- 17.1 The Complaint Protocol – Code of Conduct is Appendix 1 to the Code of Conduct.

COMPLAINT PROTOCOL

Code of Conduct for Members of Council and Local Boards

Appendix 1

PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code of Conduct may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:
 - (a) document the incident(s) where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;
 - (b) advise a third party about the concerns regarding the Member's actions;
 - (c) advise the Member that the behaviour or activity appears to contravene the Code of Conduct;
 - (d) identify to the Member the specific provision(s) of the Code of Conduct that may have been contravened;
 - (e) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;
 - (f) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to settle or resolve the issue;
 - (g) if applicable:
 - (i) confirm to the Member that his or her response is satisfactory, or
 - (ii) advise the Member that his or her response is unsatisfactory;
 - (h) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

2. Individuals are strongly encouraged to pursue the Informal Complaint Procedure as the first means of remedying behaviour or activity of a Member that they believe violates the Code of Conduct.
3. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint.
4. The Informal Complaint Procedure is not a precondition or a prerequisite to pursuing the Formal Complaint Procedure set out in Part B.

PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints

1. (1) Any individual who identifies or witnesses behaviour or activity by a Member that they reasonably believe contravenes the Code of Conduct may file a formal complaint to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code of Conduct in accordance with the following requirements:
 - (a) all complaints shall be in writing on the prescribed form and shall be dated and signed by an identifiable individual;
 - (b) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a supporting sworn affidavit setting out the evidence in full in support of the allegation; and
 - (c) Council may also file a complaint against any of its Members by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.
- (2) Individuals filing a formal complaint must provide a full and complete record of evidence to the Integrity Commissioner who is under no obligation whatsoever to, but may, seek additional or further information to supplement or complete the evidentiary record to substantiate or support the allegation set out in the complaint.

Filing of Complaint and Classification by Integrity Commissioner

2. (1) The complaint shall be filed with the Regional Clerk, who shall forward the matter forthwith to the Integrity Commissioner without added comment.
- (2) The Integrity Commissioner shall initially classify the complaint to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3.

Complaints Outside Integrity Commissioner's Jurisdiction

3. If the complaint, including the supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint relates to matters addressed by other legislation or complaint procedure under another Region procedure, policy or rule, the Integrity Commissioner shall advise the complainant in writing that the matter is not within their jurisdiction

Limitation Period

4. Complaints must be submitted within six (6) weeks of the Complainant becoming aware of the alleged contravention and no more than six (6) months after it occurred.

Periodic Reports to Council

5. (1) The Integrity Commissioner shall provide an annual report to Council summarizing his or her activities, including a report on all complaints received and on their disposition (including complaints deemed and ruled not to be within the jurisdiction of the Integrity Commissioner).
- (2) Notwithstanding Section 5(1), Council may by resolution request that the Integrity Commissioner provide a periodic report more frequently than once a year.

Refusal to Conduct Investigation

6. If the Integrity Commissioner is satisfied, after considering the information contained in the complaint, that a complaint:
 - (a) is frivolous or vexatious,
 - (b) is not made in good faith,

- (c) constitutes an abuse of process,
- (d) discloses no grounds or insufficient grounds for an investigation, or
- (e) has otherwise been dealt with by Council or a Respondent Member in a manner that is satisfactory to the Integrity Commissioner;

the Integrity Commissioner shall not be required to conduct an investigation and, where this becomes apparent in the course of an investigation, the Integrity Commissioner shall terminate the inquiry and provide notice to the complainant and, if necessary, to the Member.

Opportunities for Resolution

7. Following receipt and review of a formal complaint or at any time during the investigation where the Integrity Commissioner, in his or her discretion, believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

Investigation

8. (1) The Integrity Commissioner may proceed as follows, except where the Integrity Commissioner has a full factual record and believes, in his or her discretion, that no additional information is required, where otherwise required by the *Public Inquiries Act, 2009*, or where the Integrity Commissioner has not otherwise terminated the inquiry:
 - (a) provide the Member with an outline of the complaint with sufficient particularity to allow the Member to understand the complaint against him or her but shall not have any obligation to disclose:
 - (i) the identity of any witnesses set out in the complaint or that are questioned/interviewed by the Integrity Commissioner,unless it is essential for the Member to adequately respond to the complaint;
 - (b) request that the Member provide a written response to the allegations to the Integrity Commissioner within ten (10) days; however no additional information may be provided as part of a response unless requested by the Integrity Commissioner; and

- (c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant within ten (10) days; however no additional information may be provided as part of a response unless requested by the Integrity Commissioner.
- (2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Region's computers and servers, and may enter any Region work location relevant to the complaint for the purpose of investigation and potential resolution.
- (3) The Integrity Commissioner may, but is under no obligation, to provide the Member and Complainant with a draft of the proposed report on the complaint.
- (4) 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 an opportunity either in person or in writing to comment to the Integrity Commissioner on the proposed finding(s).
- (5) The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in the report to Council.
- (6) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or any other person encountered during the formal complaint investigation.
- (7) The Integrity Commissioner shall retain all records related to the complaint and investigation but may provide copies of certain records, in confidence, to Regional administrative staff who are required to ensure that any such records are securely and confidentially retained.

Complaints in a Municipal Election Year

- 9. Notwithstanding any other provision of this Complaint Protocol, no complaint may be referred to the Integrity Commissioner during the period of time starting on

nomination day for a regular election and ending on voting day in a regular election as set out in the Municipal Elections Act.

If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election as set out in the Municipal Elections Act, the Integrity Commissioner shall terminate the inquiry on that day. If an inquiry is terminated for the above reason, 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 Complainant or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the inquiry be commenced.

Advice Provided to Member by Integrity Commissioner

10. (1) Subject to Section 10(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code of Conduct in any subsequent consideration of the conduct of the Member in the same matter provided that the Member fully disclosed all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.
- (2) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code of Conduct or generally at law, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of the investigation that may impact the Member's rights under the Code of Conduct or at law.

Investigation Report

11. (1) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the fact of any settlement and/or any recommended remedial or corrective action.
- (2) The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of the report, in strict confidence until the report is publicly released.
- (3) Where the complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any

findings although such information may be included in a report or as part of an annual or other periodic report by the Integrity Commissioner.

Findings

12. If the Integrity Commissioner determines that:

- (a) there has been no contravention of the Code of Conduct, or
- (b) a contravention occurred but:
 - (i) the Member took all reasonable measures to prevent it,
 - (ii) it was trivial,
 - (iii) it was committed through inadvertence, or
 - (iv) it resulted from an error of judgment made in good faith,

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*, including but not limited to, a recommendation of no penalty.

Report to Council

13. Upon receipt of a report from the Integrity Commissioner, the Regional Clerk shall place the report on the next regular agenda of Council for consideration by Council and Council must consider the report at that meeting and may accept or refuse the recommendations set out in the report and accept, refuse or vary any penalties or sanctions contained in the report. A report from the Integrity Commissioner may also be considered by Council in advance of its next regular meeting should Council agree to hold a special or other meeting before its next regular meeting to consider the report.

No Reports Prior to Municipal Election

14. Notwithstanding any other provision of this Complaint Protocol, the Integrity Commissioner shall not make any report to Council or to any other person during the period of time starting on nomination day for a regular election and ending on voting day in a regular election as set out in the *Municipal Elections Act*.

Duty of Council

15. Council shall consider and make a determination on the Integrity Commissioner's report at the same meeting at which the report is tabled.

Public Disclosure

16. (1) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where it does not interfere with the course of any investigation, except as required by law and as required by this Complaint Protocol.
- (2) The Integrity Commissioner shall retain all records for a one-year period related to any complaints and investigations although copies may be provided to the Region's administrative staff, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.
- (3) The identity of the Member who is the subject of the complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council. The identity of the complainant may be disclosed if deemed appropriate and necessary by the Integrity Commissioner or if consented to by the complainant.
- (4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Regional Clerk.

Delegation

17. The Integrity Commissioner may delegate in writing to any person, other than a Member of Council, any of the Integrity Commissioner's powers and duties under Part V.1 of the *Municipal Act, 2001*.

Code of Conduct — Formal Complaint Form/Affidavit

AFFIDAVIT OF _____

I, _____ (full name), of the (City, Town etc.)

_____ (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, because

_____.

(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)

a member of the Council or Local Board(s) of Niagara Region, has contravened section(s) _____ (specify section(s)) of the Code of Conduct for Members of Council and Local Boards of Niagara Region. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space above, 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. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B etc. and attach them to this affidavit.)

This affidavit is made for the purpose of requesting that this matter be reviewed and/or investigated by Niagara Region's appointed Integrity Commissioner and for no other purpose.

SWORN (or AFFIRMED) before me at the)

_____ (City, Town etc. of,)

in the Regional Municipality of Niagara on)

_____ (date))

)

(Signature)

A Commissioner for taking affidavits etc.

Please note that signing a false affidavit may expose you to prosecution under ss. 131 and 132 or 134 of the *Criminal Code*, R.S.C. 1985, c. C-46 and also to civil liability for defamation.

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