THE TOWNSHIP OF THE ARCHIPELAGO

CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

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CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

1.0 Application and Purpose

1.1 The purpose of this Code of Conduct is to establish a general standard to ensure that all Members share a common basis for acceptable conduct, 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, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*

1.2 This Code of Conduct applies to all Members of the Council of the Township of The Archipelago and, unless specifically indicated otherwise and with all necessary modifications, to all members of the Township's local boards.

1.3 While this Code of Conduct applies to members of the Township's local boards it is recognized that such members do not hold elected office nor do they represent the Township in general and at all times.

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 Township by its Members as duly elected and/or appointed public representatives of local boards to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.

2.2 The principles set out in Sections 2.1 and 2.2 are intended to facilitate an understanding, application and interpretation of the Code of Conduct – the principles are *not* operative provisions of the Code of Conduct and are *not* intended to and shall not be enforced independently as such.

All Members shall:

- serve and be seen to serve the public in a conscientious and diligent manner;
- observe and act with the highest standard of ethical conduct and integrity;
- avoid the improper use of the influence of their office and act without self-interest;
- perform their functions with honesty, integrity, accountability and transparency;
- perform their duties of office and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
- be cognizant that they are at all times representatives of the Township and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Township; and
- uphold the spirit and the letter of the laws of Ontario and Canada and the laws and policies adopted by Council.

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 Township or designate;

(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) "Clerk" means the Clerk of the Township or designate;

(d) "confidential information" means information or records that are in the possession, in the custody or under the control of the Township that the Township 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, and all information and deliberations arising from any closed meetings;

(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 such that it might influence his or her decision in a particular matter;

(f) "Council" means the Council for the Township and includes, as the context may require and with all necessary modifications, any of the Township's local boards;

(g) “family” means a Member’s spouse, parent (including step-parent and legal guardian), child (including step-child), grandchild, sibling, aunt, uncle, niece, nephew, and in-law (including mother- and father-in-law, sister- and brother-in-law, daughter- and son-in-law);

(h) “frivolous” means of little or no weight, worth, importance or any need of serious notice;

(i) “gift” means any kind of benefit, contribution or hospitality that has any financial or monetary value and includes the forms of benefits, contributions and hospitality that are set out in Section 7.0;

(j) “Integrity Commissioner” means the person appointed by Council pursuant to section 223.3 of the *Municipal Act, 2001* to independently carry out the functions set out therein and such other functions as may be assigned by Council from time to time;

(k) “local board” means a local board as that term is defined in subsection 1(1) and section 223.1 of the *Municipal Act, 2001*;

(l) “media” includes any radio, television, newspaper, magazine, website, blog, social media, Twitter feed, YouTube or any other vehicles for the public dissemination of information, whether digital, electronic or print;

(m) “meeting” means a regular, special or other meeting of Council or a committee of Council where:

(i) a quorum of Members is present, and

(ii) Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of Council;

(n) “Member” means a Member of the Council for the Township or a member of a local board, including a member of a joint board if that member is appointed by the Council to the joint board;

(o) “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;

(p) “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;

(q) “pecuniary” means relating to or consisting of money or having financial, economic or monetary value;

(r) “social media” means any third-party hosted technologies that allow the creation and exchange of user-generated content to share opinions, information and documents, and includes blogs, discussion boards and forums, microblogs, photo-sharing sites, social networks and video sharing services;

(s) “spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;

(t) “staff” means the CAO and all officers, directors, managers, supervisors and all administrative staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents, consultants and volunteers acting in furtherance of the Township’s business and interest (not including a Member);

(u) “Township” means The Corporation of the Township of The Archipelago and includes, as the context may require and with all necessary modifications, any of the Township’s local boards;

(v) “vexatious” means troublesome or annoying in the case of being instituted without sufficient grounds and serving only to cause irritation and aggravation to the person being complained of.

4.0 General Obligations

4.1 A Member shall make every effort to:

(a) respect the individual rights, values, beliefs and personality traits of any other person, recognizing that all persons are entitled to be treated equally with dignity and respect for their personal status regarding gender, sexual orientation, gender identity, gender expression, race, creed, religion, ability and spirituality;

(b) not make statements that are or ought to be reasonably known to be false or with the intent to mislead or misinform Council or the public;

(c) not make disparaging comments about any other person (including a Member) or unfounded accusations about the motives of any person (including a Member); and

(d) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Township’s Procedural By-law or other applicable procedural rules and policies.

5.0 The Role of Staff – Respectful Conduct Towards Staff and Others

5.1 An individual Member neither directs nor oversees the functions of the staff of the Township. Council as a whole approves the budget, policies and governance of the Township through its by-laws and resolutions.

5.2 Staff serve Council and work for the Township as a body corporate under the direction of the CAO. Members shall acknowledge, respect and have regard for the administration,

managerial and organizational structure of the Township when requesting information, advice or services from staff.

5.3 A Member shall comply with the Township's Council and Staff Relations Policy.

5.4 A Member shall not publicly criticize staff and any issue with respect to any staff member shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior (if not the CAO).

5.5 A Member shall respect the role of staff in the administration of the business and governmental affairs of the Township, and acknowledge and appreciate that staff:

(a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that a Member must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;

(b) work within the administration of justice and that a Member must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, a Member 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 municipal duties based on political neutrality and without undue influence from any individual Member and, therefore, a Member 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.

5.6 A Member shall always act civilly, respectfully and professionally when dealing with or communicating with any persons, including a member of the public and other Members.

6.0 Municipal Property

6.1 Council is the custodian of the assets of the Township. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

6.2 By virtue of their office or appointment, a Member must not use or permit the use of the Township's property, including but not limited to land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Township, unless they are entitled to such use equally with any other resident and have paid fair market value for such use. No Member shall seek financial gain for themselves, family or friends from the use or sale of the Township's intellectual property, computer programs, technological innovations, or other patent, trademarks, official marks or copyright held by the Township.

6.3 A Member shall not use any Township property for activities not associated with their duties of office unless prior approval has been granted by Council.

7.0 Gifts, Benefits and Hospitality

7.1 Any gift to a Member risks the appearance of improper influence. Gifts may improperly induce influence or create an incentive for a Member to make decisions on the basis of relationships rather than in the best interests of the Township. A Member shall not accept any gift connected directly or indirectly with the performance of his or her duties except as provided in Section 7.3.

7.2 A gift provided to a Member's family that is connected directly or indirectly to the performance of the Member's duties shall be 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.

7.3 For greater clarity, despite Sections 7.1 and 7.2, a Member is entitled to accept any compensation, remuneration or benefit authorized by law but shall **NOT** accept any gift other than in the following circumstances:

(a) a gift that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation as set out in 7.3(g);

(b) a political contribution otherwise reported by law, in the case of a Member running for office;

(c) services provided without compensation by persons volunteering their time for a charitable or non-profit event or for the Member's re-election campaign;

(d) nominal tokens, mementos or souvenirs received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;

(e) 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 as a representative of the Township;

(f) entrance fees or food and beverages consumed at banquets, receptions or similar events, if:

(i) attendance serves a legitimate municipal business purpose related to the business of the Township,

(ii) the person extending the invitation or a representative of the organization is in attendance,

(iii) the invitations are infrequent, and

(iv) the value is not greater than $500.00 from a single source over a calendar year;

(g) a gift (other than gifts as set out in Section 7.3(f)) not having a value greater than $250.00 from a single source over a calendar year; and

(h) a gift received as a door prize, raffle or similar draw at an event, conference or seminar attended by the Member.

7.4 A Member who has received and accepted a gift pursuant to Section 7.3(a), (f), (g) and (h) shall file a disclosure of the gift indicating the person, body or entity from which it was received together with the estimated value of the gift in accordance with the Disclosure Statement set out in Appendix "A". A Member shall submit the Disclosure Statement to the Clerk on an annual basis no later than March 31 for the preceding calendar year and it shall be a matter of public record.

7.5 A Member shall not seek or obtain by reason of his or her office any personal privilege or advantage with respect to municipal services not otherwise available to the general public and not connected directly or indirectly to the performance of the Member's duties.

8.0 Confidential Information

8.1 A Member shall not disclose the content of any confidential information, or the substance of deliberations, from a closed meeting. A 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 any such information or any confidential aspect of the closed deliberations or information to anyone, unless authorized by Council or as required by law.

8.2 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 Township that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Township and must follow the same processes as any private person to obtain such information.

8.3 A Member shall not misuse or attempt to release, relay, disclose or impart confidential information in any way or manner as it may cause detriment to the Township, Council or any other person, or in a manner that creates a financial or other gain for themselves or others.

8.4 A Member shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, municipal policies, procedures and rules, ethical standards and, where appropriate, professional standards.

8.5 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.

9.0 Discrimination and Harassment

9.1 A Member shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

9.2 A Member shall not use indecent, abusive, demeaning or insulting words, phrases or expressions toward any member of the public, another Member or staff.

9.3 A Member shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, gender identity, gender expression, sexual orientation, marital status, family status, disability, age or record of offences for which a pardon has not been granted.

9.4 A Member shall comply with the Township's Harassment in the Workplace Policy.

10.0 Improper Use of Influence

10.1 A Member 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.

10.2 A Member 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 or their family, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

11.0 Conflicts of Interest

11.1 A Member shall recognize that they must comply with the requirements of the *Municipal Conflict of Interest Act* with respect to obligations relating to pecuniary interests. A contravention of the *Municipal Conflict of Interest Act* by a Member shall not constitute a breach of the Code of Conduct but may be enforced in accordance with the provisions of the statute and section 223.4.1 of the *Municipal Act, 2001*.

11.2 A Member shall also avoid any conflict of interest that is a non-pecuniary interest in order to maintain public confidence in the Township and its local boards. If a Member has a non-pecuniary interest, the Member shall declare the non-pecuniary interest and then leave the meeting at which the matter is being considered. Under no circumstance shall the Member participate in any discussion or vote on the matter or attempt to influence the voting on the matter in any way, before during or after the meeting. A Member having a non-pecuniary interest is not entitled to remain at the meeting and to abstain from voting, thus having their abstention recorded as a negative vote.

12.0 Council Policies and Procedures

12.1 A Member shall observe and strictly adhere to any policies, procedures and rules enacted and/or established from time to time by Council.

13.0 Election Activity

13.1 A Member is required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any of the Township's policies pertaining to elections. The use of the Township's resources, 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.

14.0 Communications and Media Relations

14.1 In order to foster respect for the decision-making process of Council, Members shall fairly and accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings. Members may publicly express the reason for voting differently than the majority but shall always do so in a respectful manner that supports the decisions of Council.

14.2 Members following an issue that has been debated and voted upon by Council shall then speak as one unified voice and support the position taken by the majority of Council.

14.3 The Reeve or delegated Council Member shall be the representative of Council to speak to the media regarding decisions of Council or Township positions on issues impacting the municipality and its residents.

14.4 Members shall not indicate, implicitly or explicitly, in any communications with the media that they speak on behalf of Council, unless they have been expressly authorized to do so by Council.

14.5 Members shall refrain from making comments of a disparaging nature about Members, staff or persons that relate to the business of the Township.

15.0 Social Media

15.1 Members using social media shall:

(a) ensure that all posts are accurate before uploading content to the internet;

(b) obtain permission before posting any third-party content;

(c) follow the same principles and guidelines as for other forms of communication by employing sound judgment and common sense, by acting with respect, dignity, courtesy and empathy; and

(d) ensure that is it noted that communications that are Member and constituent-related do not necessarily reflect the existing or future opinions, views or decisions of the Council.

16.0 Respect for the Code of Conduct

16.1 A Member shall respect the process for complaints made under the Code of Conduct, applications under the *Municipal Conflict of Interest Act* or through any process for complaints adopted by the Township.

16.2 A Member shall not act in reprisal or threaten reprisal against any person, including another Member, who makes a complaint or provides information to the Integrity Commissioner during an investigation.

16.2 A Member shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner. A Member shall not act in reprisal or threaten reprisal against the Integrity Commissioner or any person acting under the instructions of the Integrity Commissioner. The Integrity Commissioner is authorized to report any incidents of threats or reprisals by a Member to Council or the local board and may recommend penalties or remedial or corrections measures or actions against such Member. The Integrity Commissioner is also authorized to report to Council or the local board any attempt by a Member to use their office to influence any decision or recommendation of the Integrity Commissioner.

16.3 A Member shall cooperate with requests for information during any investigations or inquiries under the Code of Conduct and shall not:

(a) interfere with or obstruct an investigation by the Integrity Commissioner;

(b) destroy or damage documents or erase any digital or electronic communications or records;

(c) refuse to respond or provide records, information or documents to the Integrity Commissioner where a complaint has been filed under the Code of Conduct or any process for complaints adopted by the Township; or

(d) attempt to influence any other Member or staff with respect to the subject matter of the investigation or inquiry except as may be permitted pursuant to subsections 5(2.1) and 5.2(2) of the *Municipal Act Conflict of Interest Act*.

16.4 Staff shall remain neutral and impartial, and not seek to interfere with or attempt to subvert or obstruct the Integrity Commissioner in any way in carrying out its responsibilities and functions. Staff shall comply with any requests from the Integrity Commissioner for any assistance or information.

17.0 Penalties for Non-Compliance with the Code of Conduct

17.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council may impose the following penalties on the Member:

(a) a reprimand; and/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 ninety (90) days.

17.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 17.1 on its Member, the Integrity Commissioner may report to the local board that, in his or her opinion, the Member has contravened the Code of Conduct in which case the local board may impose the penalties set out in Section 17.1.

18.0 Remedial Measures or Corrective Actions

18.1 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following corrective actions or remedial measures, and require that the Member:

(a) provide a written or verbal apology;

(b) return property or make reimbursement of its value or of money spent;

(c) be removed from or not be appointed to the membership on a committee of Council;

(d) be removed from or not be appointed as chair of a committee of Council; and

(e) comply with any other remedial measure or corrective action deemed appropriate by the Integrity Commissioner.

18.2 In the case of a local board, if the Council has not imposed either of the penalties set out in Section 17.1 on a Member or any remedial or corrective actions under Section 18.1, the local board may impose such remedial or corrective actions as are set out in Section 18.1(a)-(e).

19.0 Legal Fees

19.1 A Member is entitled to seek the advice of the Integrity Commissioner with respect to their *own* obligations under the Code of Conduct, any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*. As such, a Member is solely responsible for their own legal costs if they retain a lawyer or paralegal to provide legal counsel, advice or representation on any matter related to the Code of Conduct, any ethical procedure, policy or rule, and sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, including, but not limited to, an investigation and the imposition of penalties or remedial or corrective actions recommended by the Integrity Commissioner or as imposed by Council, a complaint to the Ontario Ombudsman or a judicial review application to the courts from a decision based on a report and recommendations from the Integrity Commissioner, or any other related or similar proceeding.

20.0 Complaint Protocol

20.1 The Complaint Protocol is Appendix “B” to the Code of Conduct and applies to complaints under the Code of Conduct and applications under the *Municipal Conflict of Interest Act*.

21.0 Short Title

21.1 This Code of Conduct for Members of Council and Local Boards shall be referred to by its short title “Council Code of Conduct”.

APPENDIX "A"

DISCLOSURE STATEMENT FOR GIFTS

Member's Name: _____

Gift Received: _____

_____

Received From: _____

Date of Receipt: _____ Value or Estimate of Gift: _____

Please describe the circumstances under which the Gift was received:

_____

_____

Please describe your intentions with respect to the Gift:

_____

_____

_____

Do you anticipate transferring the Gift described above to the Township or the local board?

Yes, immediately _____ No _____

_____ _____

Member's Signature Date

APPENDIX "B"

CODE OF CONDUCT COMPLAINT PROTOCOL FOR MEMBERS OF COUNCIL

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 another person about the concerns regarding the Member's actions for the purpose of corroborating the incident(s) or actions;

   (c) directly 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) 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;

   (g) 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 encouraged to pursue the Informal Complaint Procedure as the first means of remedying the behaviour or activity of a Member that they believe contravenes the Code of Conduct.

3. The Integrity Commissioner may be requested to assist in an attempt to settle or resolve the issue with the Member and the individual but the Integrity Commissioner will participate only if both or all parties have consented to its participation.

4. The Informal Complaint Procedure is <u>not</u> a precondition or a prerequisite to pursuing the Formal Complaint Procedure related to the Code of Conduct set out in Part B.

PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints

5.(1) Any individual who has reasonable grounds to believe that a Member has contravened a provision of the Code of Conduct may file a formal complaint ("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) a Complaint shall be in writing on the prescribed form (Formal Complaint Form # 1 attached hereto) and shall be dated and signed by an identifiable individual ("the complainant");

(b) a Complaint must set out reasonable grounds for the allegation that the Member has contravened the Code of Conduct and set out the evidence in support of the allegation; and

(2) Council may also file a Complaint against any of its Members of an alleged contravention of the Code of Conduct by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.

(3) An elector, as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest (collectively, "a complainant") may file a formal application requesting that the Integrity Commissioner carry out an inquiry concerning an alleged contravention of section 5, 5.1 or 5.2 of that statute by a Member in accordance with the following requirements:

(a) an application (also referred to as a "Complaint" herein) shall be in writing on the prescribed form (Complaint Form # 2 attached hereto), dated and signed by an identifiable individual;

(b) the application shall include a statutory declaration attesting to the fact that:

(i) the complainant became aware of the contravention not more than six (6) weeks before the date of the application; or

(ii) in the case where the complainant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection 223.4.1(5) of the *Municipal Act, 2001*, that the complainant became aware of the alleged contravention during that period of time;

(4) Council may also pass a resolution requesting the Integrity Commissioner to undertake an inquiry respecting an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a Member and provide a statutory declaration as required by Section 5(2) to be sworn by a Member of Council.

(5) Complainants who file a formal Complaint under Section 5 must provide a full and complete record of the evidence they purport to rely upon to substantiate or support the allegations set out in the Complaint to the Integrity Commissioner. The Integrity Commissioner is under no obligation whatsoever to, but may, seek additional information.

Filing of Complaint and Classification by Integrity Commissioner

6.(1) The Complaint may be filed either with the Clerk or with the Integrity Commissioner by hard copy or by email at the following mailing or email addresses:

(a) to the Clerk (who will provide a copy to the Integrity Commissioner):

Maryann Martin
Municipal Clerk
9 James Street
Parry Sound, ON P2A 1T4

Email: mmartin@thearchipelago.ca
Tel: 705-746-4243 x 301

or

(b) directly with the Integrity Commissioner:

Aird & Berlis LLP
181 Bay Street, Suite 1800
Toronto, ON M5J 1T9

Attention: Meghan Cowan

Email: mcowan@airdberlis.com
Tel: 416-865-4722

(2) The Integrity Commissioner shall initially review the Complaint to determine if the matter is, on its face, a Complaint with respect to a contravention of the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 7 or whether it is a Complaint with respect to an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

Complaints Outside the Integrity Commissioner's Jurisdiction or Not for Investigation

7.(1) If the Complaint is not, on its face, a Complaint with respect to a contravention of the Code of Conduct or the Complaint relates to matters addressed by other legislation under another procedure, policy or rule of the Township, or whether it is a Complaint with respect to an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall advise the complainant in writing as follows:

Criminal Matter

(a) if the Complaint is, on its face, an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that the complainant may pursue it with the appropriate police service if the complainant wishes to pursue any such allegation;

Municipal Freedom of Information and Protection of Privacy Act

(b) if the Complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the Clerk to deal with under any access and privacy policies of the Township under that statute;

Other Procedure, Policy or Rule Applies

(c) if the Complaint appears to fall within the scope of another procedure, policy or rule of the Township, the complainant shall be advised to pursue the matter under such procedure, policy or rule with the appropriate municipal official or staff member; and

Lack of Jurisdiction

(d) if the Complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner (for example, it relates to a decision of Council as a whole and not one or more individual Members), the complainant shall be so advised and provided with any additional reasons and referrals, if any, as the Integrity Commissioner considers appropriate.

(2) If it becomes apparent to the Integrity Commissioner at any time that the Complaint with respect to a contravention of the Code of Conduct or with respect to an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, relates to any of the following matters, the Integrity Commissioner shall advise the complainant in writing as follows:

Matter Already Pending

(a) if the Complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, a human rights or workplace harassment complaint or similar process, or to a civil matter that is pending before the courts, the Integrity Commissioner may, in his/her sole discretion, suspend any investigation, in whole or in part, pending the result of the other process;

Similar Matter Already Pending

(b) if the Complaint is in relation to a similar matter which is subject to an outstanding Complaint before the Integrity Commissioner, the Integrity Commissioner may, in his/her sole discretion, consider the matter in conjunction with the similar matter or deal with it separately, including not undertaking an inquiry if the matter can be adequately addressed in any report and/or recommendations made with respect to the Complaint in the similar matter; and

Other Ethical Code or Policy Applies

(c) if the Complaint is in relation to a matter which is governed by a code of conduct, ethical code or similar procedure or policy of another body or entity which also governs the Members (for example, another board, body or committee to which the Member has been appointed), the Integrity Commissioner shall consider the most appropriate forum for the Complaint and may, in his/her sole discretion, defer consideration of the matter pending any determination made by the other body or entity and shall so advise the complainant and, if necessary, the Member.

(3) Nothing in Section 7 precludes the Integrity Commissioner from reporting to Council on any matter that is suspended, summarily dismissed, terminated or not otherwise investigated.

Limitation Period

8.(1) The Integrity Commissioner shall not accept a Complaint under the Code of Conduct for which the event giving rise to the Complaint occurred more than six (6) months prior to the date of the filing of the Complaint, notwithstanding when it was discovered.

(2) The Integrity Commissioner shall not accept an application with respect to an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* more than six (6) weeks after the complainant became aware of the alleged contravention except in accordance with the requirements of subsections 8(3)-(7) of that statute and section 223.4.1 of the *Municipal Act, 2001*.

Refusal to Conduct Investigation

9. The Integrity Commissioner always has a discretion as to whether to carry out an investigation. If the Integrity Commissioner is satisfied at any time, after considering the information contained in the Complaint, that the 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,

(e) does not warrant a full investigation, or

(f) is not otherwise in the public interest to investigate,

the Integrity Commissioner shall not be required to conduct an investigation and may summarily dismiss the Complaint, and, where this becomes apparent during the course of an investigation, the Integrity Commissioner shall terminate the investigation and provide notice to the complainant and, if necessary, to the Member. The Integrity Commissioner is under no obligation to report the refusal to conduct an investigation to Council.

Opportunities for Resolution

10. Following receipt and review of a Complaint or at any time during an investigation where the Integrity Commissioner, in its sole 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

11.(1) The Integrity Commissioner may proceed as follows, except where the Integrity Commissioner has a full factual record and believes, in its sole discretion, that no additional information is required, or 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 a copy of the Complaint which shall not disclose:

(i) the identity of the complainant, or

(ii) the identity of any witnesses set out in the Complaint or persons that are to be questioned/interviewed by the Integrity Commissioner,

unless it is essential for the Member to adequately respond to the Complaint, which determination shall be made by the Integrity Commissioner, in its sole discretion;

(b) request that the Member provide a written response to the allegations in the Complaint to the Integrity Commissioner within ten (10) calendar days;

(c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant to the Integrity Commissioner within ten (10) calendar days.

(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 Township's computers and servers, and may enter any municipal work location relevant to the Complaint for the purpose of investigation and potential resolution.

(3) If during the course of an investigation of a Complaint, the Integrity Commissioner discovers that the member may have committed another contravention of the Code of Conduct, the Integrity Commissioner shall have the authority to investigate and report on that matter.

(4) A draft of the proposed final report on the Complaint shall be provided to a Member if the Integrity Commissioner considers that the Member may have contravened the Code of Conduct and the Member shall have five (5) calendar days to make final submissions.

(5) The Integrity Commissioner may, but is under no obligation, to provide the complainant with a draft of the proposed final report.

(6) The Integrity Commissioner may make interim reports to Council where the Integrity Commissioner considers it necessary or required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the formal investigation, and may also disclose such information as is necessary in the Integrity Commissioner's opinion for the purposes of the interim report(s) or any final report(s).

(7) The Integrity Commissioner is entitled to make such additional inquiries and provide such additional reports to Council where necessary and as required to address any instances of non-compliance with any decision of Council including the failure to comply with any

penalties or remedial measures/corrective actions imposed by Council or on any matter that the Integrity Commissioner considers necessary.

No Complaint Prior to Municipal Election

12.(1) Notwithstanding any other provision of this Complaint Protocol, no Complaint may be filed with the Integrity Commissioner, nor shall any report shall be made by the Integrity Commissioner to Council during the period of time starting on nomination day for a regular municipal election year, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on the voting day in a regular election as set out in section 5 of the *Municipal Elections Act, 1996*.

(2) If the Integrity Commissioner has received a Complaint and has commenced an inquiry but has not completed the inquiry before nomination day in a regular municipal election year, the Integrity Commissioner shall terminate the inquiry on nomination day but may commence an inquiry in respect of the same Complaint if within six (6) weeks after the voting day in a regular municipal election the individual who made the request makes a written request to the Integrity Commissioner in accordance with subsection 223.4(8) of the *Municipal Act, 2001*.

Advice Provided to Member by Integrity Commissioner

13.(1) Subject to Section 13(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 in writing 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) If the Integrity Commissioner applies to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the Member contravened section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, the Member is entitled to advise the judge of any written advice given by the Integrity Commissioner provided that the Member fully disclosed in writing 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.

(3) 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, the *Municipal Conflict of Interest Act* or generally at law with respect to any specific matter that the Integrity Commissioner is investigating or reviewing with respect to the Member, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of any investigation or review that may impact the Member's rights under the Code of Conduct, the *Municipal Conflict of Interest Act* or generally at law.

(4) If a Member under investigation by the Integrity Commissioner requests advice, such requests shall be delegated in writing to any person, other than another Member, that the Integrity Commissioner, considers capable of providing informed advice to the Member.

Authority to Abridge or Extend

14.(1) Notwithstanding any timeline or time limit set out in the Code of Conduct or this Complaint Protocol, the Integrity Commissioner shall retain the right to abridge or extend any timeline or time limit therein if the Integrity Commissioner considers it, in its sole discretion, to be in the public interest to do so.

Investigation Report

15.(1) The Integrity Commissioner shall seek, but is not obligated, to complete an investigation within ninety (90) days of: (i) the official receipt of any Complaint under the Code of Conduct; and (ii) any additional clarification or information necessary to complete the Complaint, whichever is later.

(2) Where the Complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended penalties / remedial measures or corrective actions.

(3) A Member shall have the right to address the recommendations in a report that has made a finding of a contravention of the Code of Conduct by the Member when the report is considered by Council. The Member themselves may participate in the discussion of the recommendations but may not vote on the matter. A Member is not entitled to challenge, contest or question the findings of an Integrity Commissioner's report to Council.

(4) The role of Council is consider the Integrity Commissioner's report and the recommendations, if any, to make a decision on the imposition of recommended penalties or any remedial measures or corrective actions. Council's role is adjudicative, not investigatory and, accordingly, Members of Council are not entitled to challenge, contest or question the findings of an Integrity Commissioner's report to Council.

(5) 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 but may do so at its discretion and may also include such information as it deems necessary in a report or as part of an annual or other periodic report by the Integrity Commissioner.

(6) The Integrity Commissioner shall complete the investigation under the *Municipal Conflict of Interest Act* no later than one hundred and eighty (180) days after the official receipt of any application validly made under Sections 5(3) or (4) of this Part.

Findings

16.(1) If the Integrity Commissioner determines that:

(a) there has been no contravention of the Code of Conduct, or section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, or

(b) a contravention occurred but:

(i) the Member took all reasonable measures to prevent it, including having sought and followed the advice of the Integrity Commissioner,

(ii) it was trivial,

(iii) it was committed through inadvertence, or

(iv) it resulted from an error in 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 and no imposition of remedial measures or corrective actions.

(2) If the Integrity Commissioner:

(a) considers it appropriate, once the investigation under Section 5(3) or (4) has concluded, to apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the Member has contravened section 5, 5.1 or 5.2 of that statute; or

(b) does not proceed with an application to the judge,

the complainant and the Member shall be advised in writing.

(3) The Integrity Commissioner shall provide a written report to Council providing the reasons for its decision under Section 16(2).

Report to Council

17.(1) Upon receipt of a report from the Integrity Commissioner with respect to the Code of Conduct, the Clerk shall place the report on the next regular agenda of Council for consideration by Council *at that meeting*.

(2) 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.

Duty of Council

18. Council shall consider and make a determination on the Integrity Commissioner's recommendations in a report under Section 17 at the same meeting at which the report is listed on the agenda in a session that is open to the public. Council shall not defer consideration of the report or its determination with respect to the recommendations to another meeting, nor convene consideration of the report in a closed session.

Confidentiality and Public Disclosure

19.(1) In order to maintain the integrity of any process of inquiry or investigation, every person interacting with the Integrity Commissioner, including the complainant, the Member, any witness or any other person, shall preserve confidentiality with respect to all matters and shall not disclose any information related to the investigation to any other person unless so authorized by the Integrity Commissioner. A breach of this provision by the complainant may result in a termination of the Complaint.

(2) The Integrity Commissioner shall retain all records related to the Complaint and investigation although copies may be provided to the Township'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 and of any other person, including any witnesses, will remain confidential but may be disclosed if deemed appropriate and necessary by the Integrity Commissioner, if consented to by the complainant or any other person, or such information has already been publicly disclosed.

(4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Clerk and are published via the meeting agenda in which they are considered.

Delegation by Integrity Commissioner

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

Code of Conduct – Formal Complaint Form #1

Part 1: Complainant Information

Last Name _____ First Name _____

Address _____

Municipality _____ Province _____ Postal Code _____

Phone Number _____ Email Address _____

Part 2: Complaint Information

Name of Member(s) _____

Name of Board (if applicable) _____

What provision(s) of the Code of Conduct do you believe were contravened?

[*Set out all provision(s) alleged to have been contravened*.]

Part 3: Complaint Description

Provide detailed reasons for why you have reasonable grounds to believe the Member has contravened the Code of Conduct?

[*Set out detailed reasons on additional pages if necessary*]

[*Specify which actions or incidents relate to which provisions of the Code of Conduct*]

I have attached supporting records and/or additional pages: ☐ Yes ☐ No

I also intend to file an application for an inquiry regarding a possible contravention of the *Municipal Conflict of Interest Act* in relation to this matter: ☐ Yes ☐ No

Signature of Complainant

Date (MM/DD/YYYY)

Suggestions

- Complainants should review the full text of the Code of Conduct or relevant legislation.
- Complainants should review the Township's Complaint Protocol and may contact the Integrity Commissioner with questions about the process or procedure before filing.

The personal information on this form is collected under authority of the *Municipal Act, 2001*.

Municipal Conflict of Interest Act – Complaint Form # 2

STATUTORY DECLARATION

I, _____ (*first and last name*), of the _____in the Province of Ontario.

I SOLEMNLY DECLARE THAT:

1. I reside at: _____

   Telephone: _____

   Email: _____

2. I have reasonable and probable grounds to believe that _____ (*name of Member*) has contravened the following section(s) of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50:

   ☐ Section 5 Participated in the discussions and/or voted about a matter in which the Member has a direct or indirect pecuniary interest.

   ☐ Section 5.1 Failed to file a written statement of a declared pecuniary interest.

   ☐ Section 5.2 Used their office to attempt to influence a decision or recommendation of an officer or employee of the municipality and/or the board about a matter in which the Member has a direct or indirect pecuniary interest.

3. I became aware of the facts constituting the alleged contravention not more than six (6) weeks ago.

4. The facts constituting the alleged contravention are set out in Schedule "A" together with all applicable supporting materials, documents and records.

This declaration is made for the purpose of requesting that this matter be investigated by the Township's Integrity Commissioner and for no other purpose.

DECLARED before me at)
the _____of _____)
on _____(*date*))
) _____
(Signature)

A Commissioner for taking affidavits etc.

Please note that signing a false declaration 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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