

**THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW NUMBER 2016-125**

**BEING A BY-LAW TO ADOPT A CODE OF CONDUCT
POLICY FOR THE TOWNSHIP OF LAKE OF BAYS**

WHEREAS Section 9 of the *Municipal Act, S.O. 2001*, as amended, provides the municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

AND WHEREAS Section 11 of the *Municipal Act, S.O. 2001*, as amended, authorizes municipalities to pass by-laws regarding Accountability and Transparency of the municipality and its operations and of its local boards and their operations; and

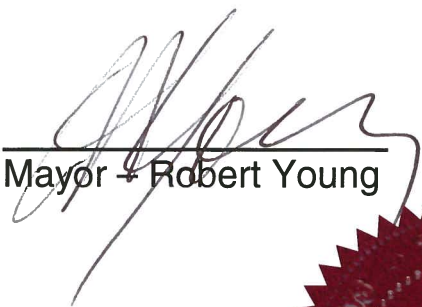
AND WHEREAS Section 223.2(1) of the *Municipal Act, S.O. 2001*, as amended, authorizes municipalities to establish codes of conduct for members of the council of the municipality and of local boards of the municipality; and

AND WHEREAS the Council of the Corporation of the Township of Lake of Bays deems to expedient to adopt a Code of Conduct policy for Council and Committees.

NOW THEREFORE the Council of the Corporation of the Township of Lake of Bays enacts as follows:

1. THAT the Council & Committee Code of Conduct policy, attached hereto as Schedule "A" forms part of this by-law and is hereby adopted
2. THAT By-law 07-149 and any by-laws or provisions in other by-laws found to be inconsistent with this new by-law are hereby deemed to be repealed.
3. THAT this By-law shall come into force and take effect upon receiving the final passing thereof.

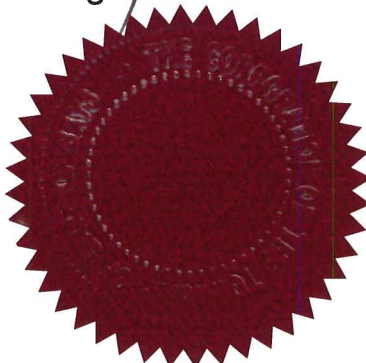
READ a FIRST, SECOND and a THIRD time and finally passed this 18th day of **October, 2016**.



Mayor – Robert Young



Clerk – Carrie Sykes



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1 PURPOSE

- 1.01 The purpose of this policy is to establish standards of conduct for Members of Council and Committees to ensure that elected/appointed officials carry out their duties in a fair, impartial, transparent and professional manner.

2 POLICY

- 2.01 The Council of the Corporation of the Township of Lake of Bays is committed to achieving the highest quality of municipal administration and governance by encouraging high standards of conduct on the part of all elected/appointed officials.

This code of conduct aims to ensure public trust and confidence in the Township's decision making and operations. Adherence to these standards will protect and maintain the municipality's integrity and fairness in its decision-making process.

2.02 APPLICATION

The Township of Lake of Bays Code of Conduct is a general standard that augments the provincial laws and municipal policies and by-laws that govern the Members' conduct. This Code of Conduct applies to all Members of Township of Lake of Bays Council and Members appointed by Council to Committees of Council.

This Code of Conduct operates along with and as a supplement to the following existing Federal and Provincial legislation governing the Members' conduct:

- a) *The Municipal Act, 2001,*
- b) *The Municipal Conflict of Interest Act,*
- c) *The Municipal Elections Act,*
- d) *The Municipal Freedom of Information and Protection of Privacy Act,*
- e) *The Occupational Health and Safety Act,*
- f) *The Ontario Human Rights Code,*
- g) *The Criminals Code of Canada,*
- h) The Township Procedural By-law and any other by-laws and policies of Council as adopted and amended from time to time.

2.03 DEFINITIONS

For the purpose of this Code of Conduct,

- 1) **Child** means a child born within or outside a marriage and includes an adopted child and a person who a parent has demonstrated a settled intention to treat as a child of his or her family or as defined under the current *Municipal Conflict of Interest Act* as amended from time to time.
- 2) **Clerk** means the Clerk of the Corporation of the Township of Lake of Bays.

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- 3) **Code** means the Code of Conduct as it applies to Members of Council and/or Committees of Council.
- 4) **Committee Member** means citizens and/or employees appointed by Council to Committees of Council.
- 5) **Complaint** means an alleged contravention of this Code.
- 6) **Confidential Information** means information in the possession of the Township that this Township is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), or other legislation. Generally, MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is subject to solicitor-client privilege and information that is deemed to be personal information. Under MFIPPA, "personal information" means recorded information about an identifiable individual, including:
 - a) Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
 - b) Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
 - c) Any identifying number, symbol or other particular assigned to the individual;
 - d) The address, telephone number, finger prints or blood type of the individual;
 - e) The personal opinions or views of the individual except if they relate to another individual;
 - f) Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
 - g) The views or opinions of another individual about the individual;
 - h) The individual's name if it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;

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- i) Any information that is of a personal nature to employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Corporation or could give the person to whom it is disclosed an advantage. Confidential information includes, but is not limited to the following:
- i) Disclosed or discussed at a Closed Session meeting;
 - ii) That is circulated to Members and marked “Confidential”; and
 - iii) That is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to the following types of information:
 - a) Personal matters about an identifiable individual(s);
 - b) Information about suppliers provided for evaluation which might be useful to other suppliers;
 - c) Matters relating to legal affairs of the Township, sources of complaints where the identity of the complainant is given in confidence; items under negotiations; and
 - d) Matters identified as solicitor-client privilege.
- 7) **Corporation** means the Corporation of the Township of Lake of Bays.
- 8) **Council** means the Council of the Corporation of the Township of Lake of Bays.
- 9) **Council Committee** means an Advisory Committee, Standing Committee, Working Group or any other Special Committee of Council, established by motion of Council.
- 10) **Employee** means a person employed by the Corporation of the Township of Lake of Bays including those employed on contract, and volunteers, but does not include Members.
- 11) **Frivolous** means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense.
- 12) **Gifts and Benefits** means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment.
- 13) **Good Faith** means in accordance with standards of honesty, trust and sincerity.
- 14) **Hospitality** means instances where there is entertainment of or by outside parties for the furtherance of municipal business.
- 15) **In-law** means a relative by marriage.
- 16) **Integrity Commissioner** means the Integrity Commissioner appointed by Council pursuant to the *Municipal Act, 2001*.

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- 17) **Member** means a member of Council or Committee of Council.
- 18) **Member of Council** means the Mayor, Deputy Mayor, District Councillor or Ward Councillor of the Corporation of the Township of Lake of Bays.
- 19) **Office** means the authority and duties attached to the position of being an elected member of Council.
- 20) **Official Duties** means the public duties of a Member and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the Township's jurisdiction, and which are done for the purpose of providing good government with respect to those matters.
- 21) **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 or as defined under the current *Municipal Conflict of Interest Act* as amended from time to time.
- 22) **Pecuniary Interests** means interests that have a direct or indirect financial impact or as defined under the current *Municipal Conflict of Interest Act* as amended from time to time; including:
- a) Any matter in which the Member has a financial interest;
 - b) Any matter in which the Member is a shareholder, director or senior officer of or holds a controlling interest in a corporation that does or does not offer its securities to the public, and such corporation has a financial interest;
 - c) Any matter in which the Member is a partner of a person or is in the employment of a person that has a financial interest; and
 - d) Any matter in which a parent, spouse, same sex partner or any child of the Member has a financial interest.
- 23) **Personal Benefit** means forms of advantage other than financial such as seeking an appointment, promotion or transfer within the Corporation on behalf of a family member and includes the private interests of a Member.
- 24) **Private Interest** means all of the activities of a Member not included in the term defined as "Official Duties".
- 25) **Sibling** means one of two or more children having one or both parents in common; a brother or sister.
- 26) **Spouse** means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage or as defined in the current *Municipal Conflict of Interest Act* as amended from time to time.
- 27) **Township** means the Corporation of the Township of Lake of Bays.

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- 28) **Township Property** means items, services or resources which are the property of the Township including but not limited to: materials, equipment, vehicles, facilities, technology, Township-developed computer programs or technological innovations, databases, intellectual property, Township-owned images, logos, coat of arms and supplies.
- 29) **Vexatious** means without reasonable or probable cause or excuse.

2.04 **General Standards of Conduct**

- 1) Members are responsible for making honest statements. No Member shall make a statement when they know that statement is false. No Members shall make a statement with the intent to mislead Council, a Committee of Council or members of the public.
- 2) Members shall at all times serve and be seen to serve their constituents in a conscientious and diligent manner.
- 3) Members will consult their dealing with each other in ways that maintain public confidence in the office to which they have been elected, are open and honest, focus on issues rather than personalities, avoid aggressive, offensive or abusive conduct.
- 4) Members shall be committed to performing their functions with integrity, accountability and transparency.
- 5) Members shall perform official duties and arrange their public affairs in a temperate and abstemious manner that promotes public confidence and respect and will bear close public scrutiny.
- 6) Members shall abide by all applicable legislation, policies and procedures pertaining to their position as a Member.
- 7) Members shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of Official Duties of the Township.
- 8) Every Member in exercising his or her powers and in discharging his or her Official Duties shall, in accordance with the *Municipal Act* and *Municipal Conflict of Interest Act*.
 - a) Seek to advance the common good of the Township;
 - b) Truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability;
 - c) Exercise care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;

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- d) Exercise their powers only for the purpose for which they were intended; and
- e) Competently exercise their office by educating themselves either formally or informally, in matters pertaining to their official duties.

2.05 **Responsibilities of Council, the Mayor and Councillors**

- 1) Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for Committees. Authority to act on behalf of Council, including through a committee, can only be delegated by Council or through law.
- 2) Council is responsible for and dedicated to providing good and effective government for the public in an open, accountable and transparent manner.
- 3) A fiduciary relationship exists between the Council and inhabitants of the municipality.
- 4) Members of Council:
 - a) May not impugn or malign a debate or decision or otherwise erode the authority of Council;
 - b) When appointed to Committees and other bodies as part of their duties must make every effort to participate diligently in these bodies with good faith and care;
 - c) Must uphold the law and conduct themselves with the highest degree of ethical behaviour and integrity;
 - d) Must avoid conflict of interest;
 - e) Must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect; and
 - f) May not make statements known to be false or make a statement with the intent to mislead Council or the public.

2.06 **Committees of Council**

- 1) Members of the public appointed to Committees of Council are appointed at the pleasure of Council. They do not hold office nor do they represent Council or the Committee of Council unless mandated to do so.
- 2) Members of the public appointed to Committees of Council must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.

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- 3) Committees of Council operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.
- 4) No Committee of Council member may act beyond the mandate of the Committee of Council granted by Council. They must not undertake site visits, direct discussions with residents, informal meetings or communications including emails except:
 - a) As granted the right to do so by Council;
 - b) Pursuant to the duties of a Member of Council; or
 - c) Otherwise if required by law.

2.07 **Respect for Decision Making Process**

- 1) Members shall accurately and adequately communicate the decisions of Council such that respect for the decision and decision-making process is fostered.
- 2) Members shall not attempt, directly or indirectly, to influence the decision-making process as it relates to the award of contracts or settlement of claims. This includes but is not limited to direct or indirect personal contact or interaction with the parties administering or directly involved in such processes.

2.08 **Avoidance of Waste**

- 1) Members shall avoid waste, abuse and extravagance in the provision or use of public resources of any other Township property.

2.09 **Gifts and Benefits**

- 1) No Member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.
- 2) For these purposes, a fee or advance, gift or benefit provided with the Member's knowledge to a Member's spouse, child, parent, brother, sister, father-in-law, mother-in-law, sister-in-law and brother-in-law 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.
- 3) The following are recognized as exceptions:
 - a) Compensation or benefit authorized by Council;
 - b) Such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - c) A political contribution otherwise reported by law;

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- d) Services provided without compensation by persons volunteering their time;
 - e) Food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country;
 - f) Food and beverages consumed at banquets, receptions or similar events, if:
 - i) Attendance serves a legitimate business purpose;
 - ii) The person extending the invitation or a representative of the organization is in attendance; and
 - iii) The value is reasonable and the invitations infrequent.
 - g) Communication to the offices of a Member, including unpaid subscriptions to newspapers and periodicals.
- 4) Except in the case of category a) or e), a Member may not accept a single gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500.

2.10 **Confidential Information**

- 1) No Member shall disclose or release by any means to any member of the public, or in any way divulge any confidential information, including personal information or any aspect of deliberations acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council resolution to do so.
- 2) No Member shall release information subject to solicitor-client privilege, unless expressly authorized by Council resolution (if so empowered), or required by law to do so.
- 3) No Member shall use confidential information including information that they have knowledge of by virtue of their position that is not in the public domain, including emails and correspondence from other Members, or third parties, for personal or private gain, or for the gain of relatives or any person or corporation or cause detriment to the Township, Council, or others. As one example, no Member should directly or indirectly benefit, or aid others to benefit from knowledge respecting bidding on the sale of Township property or assets.
- 4) Confidential information includes information in the possession of the Township that the Township is either prohibited from disclosing, or is required to refuse to disclose, under MFIPPA, or other legislation. Generally, the *MFIPPA* restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege. Members shall not disclose, use or release information in contravention of applicable privacy law.

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- 5) The *Municipal Act* permits information that concerns personal matters, labour relations, litigation, property acquisitions/dispositions, the security of the property of the Township, and matters authorized in other legislation, to remain confidential. For the purposes of the Code, “confidential information” also includes the following type of information:
- a) Any matter that has been discussed during a closed session meeting remains confidential. Members have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members shall not either directly or indirectly, release, make public or in any way divulge memorandums and staff reports that are distributed for consideration during the in-camera meeting to anyone, unless specifically authorized by Council resolution or required by law.
- 6) Examples of the types of information that a Member must keep confidential include but are not limited to the following:
- a) Items under litigation, negotiation, or personnel matters;
 - b) Information that infringes on the rights of others (e.g. sources of complaints);
 - c) Price schedules in contract tender or request for proposal submissions if so specified;
 - d) Information deemed to be “personal information” under the MFIPPA; and
 - e) Statistical data required by law not be released (i.e. certain census or assessment data)
- 7) No Members shall access or attempt to gain access to confidential information in the custody of the Township unless it is necessary for the performance of their duties and not prohibited by Council policy.
- 8) Members are only entitled to information in the possession of the Township that is relevant to matters before the Council or a Committee of Council. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen. As one example, no Member should have access to documents or receive any information related to a particular procurement process while the process is ongoing.
- 2.11 Use of Township Property, Services and Other Resources**
- 1) No Member shall use, or permit the use of Township property, including land, facilities, equipment, supplies, services, employees or other resources (i.e. Township-owned materials, computers, networks, websites, Corporate transportation) for activities other than the business of the Corporation.
 - 2) No Member shall obtain personal benefit or financial gain from the use or sale of Township property, including Township-developed intellectual property (i.e. inventions, creative writings, computer programs and drawings), technical

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innovations, Township owned images, logos, coat of arms, or other items capable of being patented, since all such property remains exclusively that of the Township.

2.12 Elections

- 1) Members shall follow the provisions of the *Municipal Elections Act* and any policy(s) with respect to the Use of Corporate Resources for Election Purposes.
- 2) No Member shall use the facilities, equipment, supplies, services or other resources of the Township (i.e. website, logo, corporate images/photos/graphics, signs, printed and electronic publications, flyers, brochures, email, business cards, letterhead, leaflets, posters, promotional items, etc.) for any election campaign or campaign-related activities.
- 3) No Member shall undertake campaign-related activities on Township property. No Member shall use the services of persons during hours in which those persons receive any compensation from the Township.

2.13 Municipal Conflict of Interest Act

- 1) Members shall conduct themselves in accordance with the *Municipal Conflict of Interest Act* as amended from time to time.

2.14 Improper Use of Influence

- 1) No Member shall use the influence of her or his office for any purpose other than for the exercise of their official duties.
- 2) Examples of prohibited conduct are the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, employees, friend, or associates (business or otherwise). This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a Member's supposed influence within Council in return for present actions.
- 3) For the purposes of this provision "private advantage" does not include a matter:
 - a) That is of general application;
 - b) That affects a member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
 - c) That concerns the remuneration or benefits of a member of Council as authorized by Council.

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2.15 Business Relations

- 1) No Member shall act as a paid agent before Council, its Committees, or an agency, board or commission of the Township except in compliance with the terms of the *Municipal Conflict of Interest Act* as amended from time to time.
- 2) No Member shall refer a third party to a person, partnership, or corporation in exchange for payment of other personal benefit.

2.16 Expenses

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

2.17 Conduct respecting Current and Prospective Employment

- 1) No Member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the Township.

2.18 Conduct at Meetings of Council

- 1) Members shall conduct themselves with decorum at Council and Committee meetings. Specific provisions in this regard shall be contained in the Township Procedural By-law, as amended from time to time.

2.19 Conduct respecting Employees

- 1) Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategic priorities through the work of employees.
- 2) Employees have an obligation to recognize that members of Council have been duly elected to serve the residents of the Township of Lake of Bays and respect the role of Council in directing the actions of the Township.
- 3) Employees serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. Council directs employees through its decisions as recorded in the minutes and resolutions of Council. Members have no individual capacity to direct employees to carry out particular functions.

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- 4) Inquiries of employees from Members should be directed to the Chief Administrative Officer or the appropriate senior employees as directed by the Chief Administrative Officer.
- 5) Only Council as a whole and no single Member including the Mayor has the authority to direct employees, approve budget, policy, committee processes and other such matters, unless specifically authorized by Council.
- 6) Members shall be respectful of the role of employees to provide advice and recommendations based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council. Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees, and all Members shall show respect for the professional capacities of the employees of the Township.
- 7) Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. Similarly, employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed for their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence employees in the performance of such duties and obligations.
- 8) Certain employees are employed within the administration of justice. Members shall refrain from making requests or statements or taking actions which may be construed as an attempt to influence the independent administration of justice.
- 9) No Member shall compel employees to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any Member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any employees with the intent of interfering with that persons' duties, including the duty to disclose improper activity.
- 10) In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Code and include dealing with constituents and the general public, participating as Committee members, participating as Chairs of Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of employees in both the carrying out of their responsibilities and in dealing with Council.

2.20 **Discreditable Conduct**

- 1) All Members have a duty to treat the public, one another and employees appropriately and without abuse, bullying or intimidation. All Members shall ensure that the work environment is free from discrimination and of personal and

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sexual harassment. The Ontario *Human Rights Code* applies, as do Township policies in this regard.

- 2) Members shall abide by the provisions of the *Human Rights Code*, as amended, and, in doing so, shall treat every person, including other Members, employees, and individuals providing services on a contract for service, students on placements, and the public with dignity, understanding and respect.
- 3) In accordance with the *Human Rights Code*, as amended, Members shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, or disability.
- 4) In accordance with the *Human Rights Code*, as amended, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 5) Without limiting the generality of the foregoing, Members shall not:
 - a) Make inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
 - b) Display materials or transmit communications that are inappropriate, offensive, insulting or derogatory;
 - c) Make threats or engage in any abusive activity or course of conduct towards others;
 - d) Vandalize the personal property of others;
 - e) Commit assault of any kind, including making unwanted physical contact, including touching, patting or pinching; or
 - f) Refuse to converse or interact with anyone based on any ground listed in the *Human Rights Code*, as amended.
- 6) Harassment which occurs in the course of, or is related to, the performance of Official Duties by Members is subject to this Code. If an employee or a member of the public brings forward a harassment complaint against a Member, the complaint procedure under the Township's Respect in the Workplace policy will apply. In all other cases involving a Member, complaints will be addressed in accordance with the sections below.

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2.21 Failure to Adhere to Council Policies and Procedures

- 1) A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by Council.
- 2) This provision does not prevent a Member from requesting that Council grant an exemption from a policy.

2.22 Reprisals and Obstruction

- 1) Members shall respect the integrity of the Code. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the Code to obstruct the Integrity Commissioner in the carrying out of his or her responsibilities (i.e. providing inaccurate or misleading information to the Integrity Commissioner, refusing to answer inquiries or by the destruction of (records) documents or the erasing of electronic communications.

2.23 Acting on Advice of the Integrity Commissioner

- 1) Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner, and the information or facts have not changed in the interim.

2.24 Compliance with the Code of Conduct

- 1) Members of Council are accountable to the public through the four-year election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.
- 2) In addition to any other consequence imposed by law, Members found to have breached this Code may be subject to discipline including:
 - a) Removal of the councillor's appointment on a particular committee or board;
 - b) Request for written or public apology;
 - c) Formal and public declaration that the councillor breached the Code of Conduct;
 - d) Return of gift or benefit;
 - e) Harassment training;
 - f) Making a personal donation to a charity of the complainant's choice;

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- g) Removal of access to areas on municipal premises unless accompanied by senior management, with the exception of Council or Committee meetings;
 - h) Requiring that the councillor's correspondence and inquiries to municipal staff be conducted through the CAO or Clerk;
 - i) Barring the councillor from meeting with a particular staff member unless arranged through the CAO's office;
 - j) Reprimand; or
 - k) Where applicable, suspension of remuneration paid for his or her services as a Member, for a period of up to ninety (90) days.
- 3) The Council shall appoint an Integrity Commissioner to investigate alleged breaches of this Code.
- 4) Any individual, including members of the public, employees, and members of Council, who has reasonable grounds to believe that a Member has breached a provision of the Code, may proceed with a complaint.
- 5) An organization, employee, Member or the public having reasonable grounds to believe that a Member has breached this Code, may proceed with a complaint. Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring. No action will be taken on a complaint received beyond these deadlines.
- 6) A complainant does not have to pursue the informal complaint process set out in Section 2.25(1) prior to proceeding with the formal complaint process set out in Section 2.25(2).

2.25 Procedure - Complaints

1) Informal Complaints

Any individual, including members of the public, Township staff and Members, who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code may address their concerns in the following manner:

- a) Advise the Member that their behaviour or activity contravenes the Code;
- b) Encourage the Member to stop the prohibited behaviour or activity;
- c) If applicable, confirm to the Member your satisfaction or dissatisfaction with his or her response to the concern identified;
- d) Keep a written record of the incidents including dates, times, location, other persons present, and any other relevant information, including steps taken to resolve the matter;

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- e) Notify the Clerk of the informal complaint and provide the complainant's contact information and the nature of the complaint;
- f) The Clerk will notify the Integrity Commissioner of the informal complaint;
- g) Request the Integrity Commissioner to act as a mediator providing both parties agree; and
- h) If not satisfied with the response received through the informal process, an individual may proceed with a formal complaint through the Integrity Commissioner as outlined.

2) Formal Complaints

Any individual who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code may address their concerns through the formal complaint process set out below:

- a) All formal complaints must be made using the Complaint Form/Affidavit (Appendix 'A') and shall be dated and signed by the complainant;
- b) The complaint must include an explanation as to why the issue raised may be a contravention of the Code and any evidence in support of the allegation must be included with the Complaints Form/Affidavit;
- c) Any witnesses in support of the allegation must be identified on the Complaint Form/Affidavit;
- d) The Complaint Form/Affidavit must include the name of the Member alleged to have breached the Code, the section of the Code allegedly contravened, the date, time and location of the alleged contravention and any other information as required on the Complaint Form/Affidavit;
- e) The complaint shall be filed with the Clerk or designate who shall confirm that the information is complete as to a), b), c), and d) of this section. In the event that the Clerk determines that an individual has not completed and provided the required forms and material, the Clerk shall advise the individual that the complaint is incomplete and that it cannot be reviewed until such time as the complaint is made complete. Nothing in this section shall be deemed to extend the times to make a complaint as set out in Section 2.25(5);
- f) The Clerk or designate will forward the Complaint Form/Affidavit to the Integrity Commissioner who will determine whether the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or policies; and
- g) The Integrity Commissioner may request additional information from the complainant.

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3) Response of Integrity Commissioner of Complaint Outside Jurisdiction

If the complaint received by the Integrity Commissioner is deemed not to be a complaint with respect to non-compliance with the Code, the Integrity Commissioner shall advise the complainant in writing as follows:

- a) **Criminal Matter** - if the complaint is an allegation of a criminal nature consistent with the *Criminal Code* of Canada, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service.
- b) **Municipal Conflict of Interest** - if the complaint is an allegation with respect to matters under the *Municipal Conflict of Interest Act*, the complainant shall be advised to review the matter with their own legal counsel.
- c) **Municipal Freedom of Information and Protection of Privacy** - if the complaint is more appropriately addressed under the MFIPPA, the complainant shall be referred to the Clerk to have the matter reviewed under that Act.
- d) **Discrimination or Harassment** - if the complaint is an allegation of discrimination or harassment, the complainant shall be advised to file a complaint directly to Human Resources under the Township policy in this regard. The complainant will also be advised of their right to advance an application to the Ontario Human Rights Tribunal.
- e) If the matter is covered by other policies with a complaint procedure or legislation, the complainant will be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner.

4) Refusal to Conduct an Investigation

If upon review of a complaint, the Integrity Commissioner is of the opinion that the complaint is frivolous, vexatious or not made in good faith, or that there are no, or insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the complainant and the Member identified in the Complaint Form/Affidavit.

5) Opportunity for Resolution

If at any time, following the receipt of a formal complaint or during the investigation process, the Integrity Commissioner 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 made to achieve an informal resolution.

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2.26 **Investigation**

- 1) If the Integrity Commissioner determines that a formal investigation is required they shall proceed in the following manner, subject to the Integrity Commissioner's ability to elect to exercise the powers of a commissioner under Parts I and II of the *Public Inquiries Act*.
- 2) The Integrity Commissioner shall provide a copy of the complaint and any supporting materials to the Member whose conduct is in question with a request that written response to the allegation be provided to the Integrity Commissioner within fourteen (14) days.
- 3) The Integrity Commissioner shall give a copy of the response provided by the Member to the complainant with a request for a written reply within fourteen (14) days.
- 4) If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any Township work location relevant to the complaint for the purpose of investigation and potential resolution.
- 5) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation encountered during the investigation.
- 6) At any time the complainant may abandon the request for an investigation and the Integrity Commissioner will cease their investigation.

2.27 **Recommendation Report**

- 1) Upon completion of an investigation, the Integrity Commissioner shall report to the complainant and the Member on the results of the investigation review within ninety (90) days of receiving a complete Complaint Form/Affidavit. If the investigation process is going to take more than ninety (90) days, the Integrity Commissioner shall provide an interim report to the complainant and Member indicating when the complete report will be available.
- 2) If during the investigation process, the complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, the terms of any resolution and any recommended action within thirty (30) days.
- 3) If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report their findings to Council including a recommendation as to the imposition of a penalty as set out in the *Municipal Act* and the Code.
- 4) If upon completion of the investigation, the Integrity Commissioner finds that there has been no contravention of the Code, or that a contravention occurred, however, the Member took all reasonable measures to prevent it, or the contravention

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committed was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall set this out in their report to Council.

2.28 **Duty of Council**

- 1) Council shall consider the report of the Integrity Commissioner within forty-five (45) days of it being received by the Clerk and shall take the action it considers appropriate with regard to the recommendation(s) of the Integrity Commissioner.
- 2) In circumstances where the alleged breach of trust or other misconduct is serious in nature, Council may pass a resolution, pursuant to the *Municipal Act*, requesting a judicial investigation into the Member's conduct.
- 3) No Complaints or Reports Prior to Election
 - a) No complaint regarding a Member who is a candidate in an election may be referred to the Integrity Commissioner for review and/or investigation between Nomination Day and the date of the inaugural meeting of Council in any year in which a regular municipal election will be held. Any complaint received after Nomination Day shall be deemed received by the Integrity Commissioner on December 1 in a regular election year and the complainant shall be so advised of this process.
 - b) Any reports would proceed to the first Council meeting held after the inaugural meeting of the new Council.
 - c) Notwithstanding Section 2.28 of the Code, no report shall be made to Council on an outstanding investigation between Nomination Day and the inaugural meeting of the new Council in a regular election year.

2.29 **Confidentiality of Complaint Documents**

- 1) The Integrity Commissioner and every person acting under their instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the Township or not, that come into their possession or to their knowledge during the course of their duties as required by Section 223.5 of the *Municipal Act*.
- 2) Pursuant to Section 223.5(3) of the *Municipal Act*, this section prevails over the MFIPPA.
- 3) If the Integrity Commissioner reports to the Council on an investigation into an alleged breach of the Code, the report shall only disclose such information that, in the Integrity Commissioner's opinion, is required for the purposes of the report.
- 4) If the Integrity Commissioner issues an annual or other periodic report to Council on their activities, the Integrity Commissioner shall summarize the advice he or

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she has given but shall not disclose confidential information that could identify a person concerned.

2.30 **Other Duties of the Integrity Commissioner**

In addition, to conducting investigations regarding alleged breaches of the Code, the Integrity Commissioner shall have the following responsibilities:

- 1) Provide information to Council as to their obligations under the Code; and
- 2) Provide an annual report to Council on the activities of the Integrity Commissioner.

2.31 **Annual Report to Council**

- 1) In completing the annual report to Council, the Integrity Commissioner shall include information on the nature and volume of activity for the past year and provide examples, anonymized in respect of advice provided and the nature of complaints received and responded to.
- 2) The annual report of the Integrity Commissioner shall be provided to Council for information purposes no later than March 31 annually. The report is a public document.

2.32 **No Integrity Commissioner Appointed**

- 1) Should the Integrity Commissioner appointment be vacant, the Code remains in effect and all Members shall abide by the provisions set out therein.
- 2) When a vacancy occurs and a complaint is received, the Clerk shall engage the temporary services of an Integrity Commissioners to enable the complaint to be addressed within a reasonable timeframe.

3. **REVISION CONTROL**

Revision Date	Revision	Effective Date
Oct. 18/16	Complete Update from policy adopted Nov 6/07	Oct.18/16

4. **ATTACHMENTS**

APPENDIX 'A' - Formal Complaint Form/Affidavit

- Schedule 'A' - Additional Information

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APPENDIX 'A'

Formal Complaint Form/Affidavit

<p>I, _____ (<i>insert full name</i>) of the _____ (<i>insert municipality</i>) in the Province of Ontario do solemnly swear/affirm and declare that the following contents of this affidavit as subscribed are true and correct.</p>
<p>Permanent place of residence:</p>
<p>Mailing address (if different from above):</p>
<p>I have personal knowledge of the facts as set out in this Affidavit because (<i>insert reason such as, I work for...I attended a meeting at which....etc.</i>):</p>
<p>I have reasonable and probable grounds to believe that _____ (<i>specify name of Member</i>) has contravened section(s) _____ of the Council Code of Conduct of the Township of Lake of Bays.</p>
<p>The particulars of which are as follows:</p>

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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 and check the appropriate box below. 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:

Please see the attached Schedule A (check if applicable)

This affidavit is made for the purpose of requesting that this matter be reviewed by the Township of Lake of Bays appointed Integrity Commissioner and for no other purposes.

Sworn/Affirmed before me at the Township of Lake of Bays, in the District of Muskoka in the Province of Ontario on the _____ day of _____, 20 ____ .

A Commissioner, etc.

Signature of Complainant (to be witnessed by Commissioner)

Note: This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority to confirm or verify the above sworn information. **THE CRIMINAL CODE OF CANADA** provides that: everyone commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him/her a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years (Section 131, 132) or by summary conviction (Section 134).

If the Integrity Commissioner finds that a filed complaint is malicious, frivolous, vexatious, or has no basis in fact, the appellant may be required to reimburse the municipality for the Integrity Commissioner's fees and/or other municipal or respondents costs associated with the complaint.

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Schedule 'A'

Additional Information

To the affidavit required under Section 2.25 of the Procedure - Formal Complaint of the Council Code of Conduct (if more than one page is required, please photocopy this blank page and mark each additional page as 2 of 2, 2 of 3, etc. at the top right hand corner.)
This Schedule 'A' referred to in the Affidavit of _____ (full name) Sworn/Affirmed before me on the _____ day of _____, 20 ____ .
_____ A Commissioner, etc.



COUNCIL & COMMITTEE CODE OF CONDUCT
By-law 2016-125
Formal Complaint Form/Affidavit

<p>I, _____ (<i>insert full name</i>) of the _____ (<i>insert municipality</i>) in the Province of Ontario do solemnly swear/affirm and declare that the following contents of this affidavit as subscribed are true and correct.</p>
<p>Permanent place of residence:</p>
<p>Mailing address (if different from above):</p>
<p>I have personal knowledge of the facts as set out in this Affidavit because (<i>insert reason such as, I work for...I attended a meeting at which....etc.</i>):</p>
<p>I have reasonable and probable grounds to believe that _____ (<i>specify name of Member</i>) has contravened section(s) _____ of the Council Code of Conduct of the Township of Lake of Bays.</p>
<p>The particulars of which are as follows:</p>



COUNCIL & COMMITTEE CODE OF CONDUCT
By-law 2016-125
Formal Complaint Form/Affidavit

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 and check the appropriate box below. 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:

Please see the attached Schedule A (check if applicable)

This affidavit is made for the purpose of requesting that this matter be reviewed by the Township of Lake of Bays appointed Integrity Commissioner and for no other purposes.

Sworn/Affirmed before me at the Township of
Lake of Bays, in the District of Muskoka in the
Province of Ontario on the _____ day of
_____, 20 ____.

A Commissioner, etc.

Signature of Complainant (to be witnessed
by Commissioner)

Note: This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority to confirm or verify the above sworn information. **THE CRIMINAL CODE OF CANADA** provides that: everyone commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to be made before him/her a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years (Section 131, 132) or by summary conviction (Section 134).

If the Integrity Commissioner finds that a filed complaint is malicious, frivolous, vexatious, or has no basis in fact, the appellant may be required to reimburse the municipality for the Integrity Commissioner's fees and/or other municipal or respondents costs associated with the complaint.



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To the affidavit required under Section 2.25 of the Procedure - Formal Complaint of the Council Code of Conduct (if more than one page is required, please photocopy this blank page and mark each additional page as 2 of 2, 2 of 3, etc. at the top right hand corner.)

This Schedule 'A' referred to in the Affidavit of _____
(full name) Sworn/Affirmed before me on the _____ day of _____,
20 _____ .

A Commissioner, etc.