

THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

BY-LAW NO. 19-26

Being a By-law to adopt a Code of Conduct Policy for Council and Local Boards to Promote Accountability and Transparency in Municipal Governance.

WHEREAS, Section 8 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides a Municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Part V.1, Accountability and Transparency, Section 223.2(1) of the Municipal Act, 2001, c. 25, as amended, authorizes a Municipality to establish codes of conduct for members of council of the Municipality and of local boards of the Municipality;

AND WHEREAS Subsection 2.1 of Section 270 of the Municipal Act, 2001, c. 25, as amended, requires that a municipality adopt and maintain a policy with respect to the relationship between members of council and the officers and employees of the municipality;

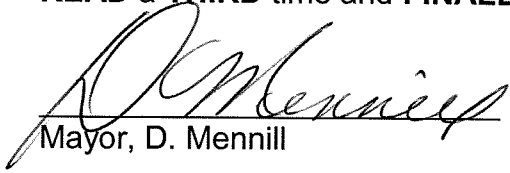
AND WHEREAS the Council of The Corporation of the Township of Malahide deems it necessary to adopt a Code of Conduct Policy reflecting the required ethical and legal requirements for all members of the Council of the Municipality and of local boards of the Municipality for all deliveries of services;

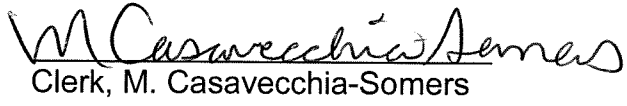
NOW THEREFORE the Council of The Corporation of the Township of Malahide **HEREBY ENACTS AS FOLLOWS:**

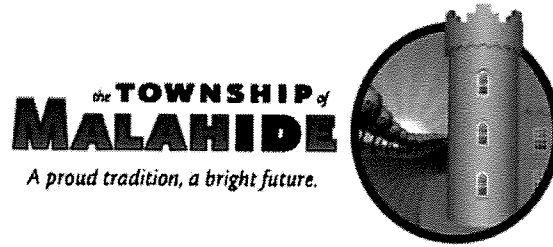
1. THAT a Code of Conduct for Council and Local Boards be adopted in substantially the same form as that attached hereto as Schedule "A" and forming a part of this By-law.
2. THAT the Council of The Corporation of the Township of Malahide does hereby confirm that the policies set out in Part 8 and Part 18 of the Code of Conduct for Council and Local Boards shall constitute the policy as required by Section 270(1)2.1 of the Municipal Act, 2001.
3. THAT in the event that section or sections of this by-law thereof are found by a Court of competent jurisdiction to be invalid or ultra vires, such section, sections or parts thereof shall be deemed to be severable, with all other sections or parts of this by-law remaining in the full force and effect.
4. THAT this By-law shall come into force and take effect on the final passing thereof.

READ a **FIRST** and **SECOND** time this 21st day of February, 2019.

READ a **THIRD** time and **FINALLY PASSED** this 21st day of February, 2019.


Mayor, D. Mennill


Clerk, M. Casavecchia-Somers



By-law No. 19-26
Schedule "A"

CODE OF CONDUCT

**FOR MEMBERS OF COUNCIL
AND
LOCAL BOARDS
FOR THE
CORPORATION OF THE
TOWNSHIP OF MALAHIDE**

February 7, 2019

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
THE CORPORATION OF THE TOWNSHIP OF MALAHIDE**

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CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

PART 1: PREAMBLE

Members have important obligations and responsibilities to those they represent, service, and interact with in connection with carrying out the roles and duties attending a Member's office.

The purpose and intent of this Code of Conduct is as follows:

- (i) To establish guidelines for ethical conduct required of Members;
- (ii) To establish guidelines to encourage and ensure interpersonal conduct, communications and interactions consistent with legal requirements (i.e. *Occupational Health and Safety Act, Ontario Human Rights Code*); and
- (iii) To provide mechanisms to ensure accountability and compliance with the required ethical and interpersonal conduct standards of this Code of Conduct.

PART 2: DEFINITIONS

- 2.1 "Censure" means an official expression of disapproval or condemnation.
- 2.2 "Clerk" shall mean an Employee authorized to act as the Clerk of the Township.
- 2.3 "Closed Meeting" shall mean a meeting or part of a meeting of Council not open to the public in accordance with the *Municipal Act, 2001*, S.O. 2001, Chapter 25, as amended.
- 2.4 "Committee" shall mean a Committee established by Council.
- 2.5 "Complaint" shall mean an alleged violation of this Code.
- 2.6 "Confidential Information" includes information in the possession of the Township that the Township is prohibited from disclosing under the *Municipal Freedom of Information and Protection of Privacy Act*, the *Personal Health Information Protection Act, 2004* and other applicable legislation. Confidential Information also means any information that is of a personal nature to Township employees or clients or information that is not available to the public and that, if disclosed, could result in loss or damage to the Township or could give the person to whom it is disclosed an advantage. Confidential Information includes items disclosed or discussed at closed sessions of Council and Committee meetings.
- 2.7 "Council" shall mean the elected officials who constitute municipal council for The Corporation of the Township of Malahide.
- 2.8 "Employee" shall mean a person employed by the Township, including those employed on personal service contracts and volunteers, but does not include members of Council.

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- 2.9 "Gift" includes any cash or monetary equivalent fee, object of value, service, forbearance, preferential treatment, or personal benefit received from a third party.
- 2.10 "Good Faith" shall mean accordance with standards of honesty, trust, and sincerity as practiced and understood within the Malahide community.
- 2.11 "Integrity Commissioner" shall mean a person appointed by Council to provide independent and consistent complaint investigation and resolution respecting the application of the Code of Conduct, and as defined by Township of Malahide By-law No. 19-21 ("Integrity Commissioner By-law").
- 2.12 "Immediate Relative" shall mean a parent, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law, as well as step-relationships.
- 2.13 "Lobby" or "lobby" shall mean to communicate with a member outside of a public process about matters of interest or benefit to the lobbyist and their client business organization. Communication may be about a by-law or resolution on any matter that requires a decision by Council, a local board, or delegated decision-maker and includes matters regarding policies or programs, the purchase of goods and services and the awarding of contracts, applications for a service grant, planning approval, or other licence.
- 2.14 "Media" includes any entity such as radio, television, newspaper, magazine, websites, blogs, social media, twitter feeds, or other vehicles for the public dissemination of information.
- 2.15 "Member" means any member of Council, and includes the Mayor and any member of the public appointed to a committee or advisory board.
- 2.16 "Meeting" shall mean any regular, special or other meeting of Council.
- 2.17 "Pecuniary Interest" shall mean an interest that has a direct or indirect financial impact or as defined under the *Municipal Conflict of Interest Act*, as amended.
- 2.18 "Spouse" shall mean the person to whom a Member is married or with whom the Member is living in a conjugal relationship.

PART 3: APPLICATION

- 3.1 This Code of Conduct applies to the Mayor, the Deputy Mayor and all Members of Council and members of the public appointed to committees and advisory boards.

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THE CORPORATION OF THE TOWNSHIP OF MALAHIDE**

PART 4: PURPOSE

- 4.1 A Member's conduct and behavior in terms of ethics and interpersonal conduct and communications are regulated by legislative acts including, but not limited to, the following:
- a) *Criminal Code of Canada*;
 - b) *Human Rights Code*;
 - c) *Municipal Act, 2001*;
 - d) *Municipal Conflict of Interest Act*;
 - e) *Municipal Freedom of Information and Protection of Privacy Act*;
 - f) *Municipal Elections Act, 1996*;
 - g) *Personal Health Information Protection Act, 2004*;
 - h) *The Public Inquiry Act*; and,
 - i) *The Occupational Health and Safety Act*.

PART 5: GENERAL DUTIES

- 5.1 It shall be the duty of all Members to abide by all applicable legislation, policies, and procedures pertaining to their position as a Member.
- 5.2 Members shall at all times serve and be seen to serve their constituents in a conscientious and diligent manner.
- 5.3 Members will conduct their dealings with each other in ways that maintain public confidence in the position to which they have been elected or appointed. Members will be open and honest, focus on issues rather than personalities, and avoid aggressive, offensive, or abusive conduct.
- 5.4 Members shall accurately and adequately communicate the attitudes and decisions of the Council even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.
- 5.5 Members shall conduct themselves at all Council and Committee Meetings with decorum, in accordance with the Township of Malahide's Procedural By-law.
- 5.6 In accordance with the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*, every Member shall exercise his or her power and discharge his or her official duties in accordance with the following guiding principles:
- a) Seek to advance the common good of the Township;
 - b) Exercise care, diligence and skill that a reasonably prudent person would exercise in similar circumstances;

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- c) Exercise his or her powers only for the purposes for which they were intended; and,
- d) Truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability.

PART 6: CONFLICT OF INTEREST

- 6.1 Members have strict obligations to avoid conflicts of interest by taking the following steps whenever a member has a direct or indirect pecuniary interest in any matter that is before Council in a meeting where the member is present:
 - (i) disclose the general nature of the member's interest prior to any consideration of the matter in the meeting;
 - (ii) refrain from participating in the discussion of the matter or in any vote on the matter; and
 - (iii) refrain from attempting to influence the voting on the matter or question, before, during or after the meeting.
- 6.2 All members have important ethical and statutory obligations to adhere to the steps outlined above to ensure avoidance of any conflict of interest in connection with carrying out the obligations of the Member's office. Each Member must declare the conflict of interest and general nature thereof verbally at the beginning of each meeting and provide the Clerk with the signed declaration in accordance with *Appendix D* attached.
- 6.3 While the Integrity Commissioner may provide general interpretation of the Municipal Conflict of Interest Act (MCIA), it is expected that members seek independent legal advice on a specific question of individual compliance with the Act.
- 6.4 Members shall be responsible for ensuring that they are familiar with the *Municipal Conflict of Interest Act*. If, upon review by the Integrity Commissioner, a complaint is deemed to be a matter covered by the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall advise the complainant, with an explanation, in writing, and an investigation may be conducted in accordance with powers and duties of Integrity Commissioner.

PART 7: GIFTS AND PARTICIPATION AT EVENTS

- 7.1 No Member shall solicit or accept any gift or accept or receive a fee, advance, cash or personal benefit that is directly or indirectly connected with the performance of his or her duties of office. For the purposes of this provision any gift provided to a Member's child, parent, or spouse with the Member's knowledge shall be deemed to be a gift accepted by that Member.

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- 7.2 The Township recognizes that moderate hospitality and participation in charitable non-profit fundraising, and business events is an accepted facet of community participation and business relationships. Accordingly, the following types of gifts are recognized as exceptions to the prohibition in Section 7.1:
- a) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibilities of office;
 - b) token gifts such as souvenirs, mementoes and commemorative gifts that are given in recognition of service on a committee, for speaking at an event, or representing the Township at an event;
 - c) food and beverages consumed at lunches, dinners, charity fundraisers, banquets, receptions, ceremonies, or similar events, if the Member's attendance serves a legitimate municipal purpose;
 - d) communications to the offices of a Member, including subscriptions to newspapers and periodicals;
 - e) compensation authorized by law;
 - f) political contributions that are offered accepted and reported in accordance with applicable law;
 - g) services provided without compensation by persons volunteering their time;
 - h) gifts of admission to dinner, charity fundraisers, banquets, receptions, ceremonies, cultural events, sporting events, business galas, political events, and similar events, if the Member's attendance serves a legitimate municipal purpose;
 - i) reasonable payment for participation in or organizing any reception, dinner, gala, golf tournament, or similar event, to support charitable causes or a political fundraising event, and food, lodging, transportation, or entertainment from a not for profit non-government organization.
- 7.3 Within 30 days of receipt of any gift described in Section 7.2, Members shall file a disclosure statement, in accordance with the format set forth in *Appendix A* attached, with the Integrity Commissioner for any gift that exceeds \$200 in value. If the value of any gift described in Section 7.2 exceeds \$500 or if the total value of such gifts received from any one source during one calendar year exceeds \$1,000, the Member shall file a disclosure statement with the Integrity Commissioner within 30 days of the receipt of the gift. Every disclosure statement shall indicate:
- (i) the nature of the gift;
 - (ii) its source and date of receipt;
 - (iii) the circumstances under which it was received; and
 - (iv) its estimated value.
- 7.4 Every disclosure statement to the Integrity Commissioner and as anticipated in 7.3 above shall be a matter of public record.

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- 7.5 The Integrity Commissioner shall report to Council annually on all gifts received by Members that are disclosed in accordance with Section 7.3.
- 7.6 The Integrity Commissioner shall examine every disclosure statement filed with him or her to ascertain whether the receipt of the gift might in her or his opinion create a conflict between a private interest and the public duties of the Member.
- 7.7 If the Integrity Commissioner makes a preliminary determination of a conflict the Member shall be asked to justify receipt of the gift.
- 7.8 If the Integrity Commissioner determines that receipt of the gift was prohibited he or she shall report the findings to Council.

PART 8: INTERACTION WITH THE PUBLIC, OTHER MEMBERS and TOWNSHIP STAFF

- 8.1 Members have a duty to treat members of the public, each other, and staff with respect and dignity and without abuse, bullying, or intimidation.
- 8.2 Members have a duty to ensure that the Township's work environment is safe and free from discrimination and harassment.
- 8.3 Members are to recognize that 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. The role of Employees is to provide advice and services that are based on political neutrality, objectivity, and professional judgment which may not necessarily reflect the opinion or position of any single Member. Members have no individual capacity to direct Employees to perform specific functions.
- 8.4 Inquiries of Employees from Members should be directed to the Chief Administrative Officer or the appropriate Department Head.
- 8.5 No Member shall compel Employees to engage in partisan political activities or be subjected to threats, discipline, or discrimination for refusing to engage in any such activity.
- 8.6 Members shall show respect for the professional capacities of Township Employees. Some Employees have professional credentials (examples: CGA, CBO) which create separate legal and ethical obligations for those Employees. Members shall refrain from any conduct which may deter, interfere, or unduly influence Employees in such a manner as to result in them violating their professional legal or ethical obligations.

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PART 9: IMPROPER USE OF INFLUENCE

- 9.1 No Member shall use his or her office to seek to influence any decision made, or to be made, by Council to the Member's private advantage or to the advantage of another person.
- 9.2 No Member shall use his or her office to seek to influence or interfere with the administration or enforcement of the Township's regulatory By-laws or other laws enforced by the Township. Notwithstanding the foregoing, it is recognized that Members of Council may in good faith raise the concerns of residents with Township Employees for the purpose of determining if those concerns can be resolved having due regard for the public interest in fair and impartial By-law enforcement.
- 9.3 All applicants for Township positions shall have an equal opportunity to obtain such employment. No Member shall use his or her office to seek to inappropriately influence the hiring of specific individuals for any position within the Township.
- 9.4 Nothing in this Section prohibits a Member from providing a reference for an applicant for any position within the Township, or offering his or her opinions and voting on any decision to hire a Chief Administrative Officer.
- 9.5 No Member shall support any cause or third party using the Township's corporate logo or the Township letterhead in any communication intended to solicit funds without a vote or resolution of Council.

PART 10: CONFIDENTIAL INFORMATION

- 10.1 Members shall hold in strict confidence all Confidential Information concerning matters dealt with in-camera. No Member shall release, make public, or in any way divulge any such Confidential Information or any aspect of the in-camera deliberations unless expressly authorized by Council or required by law.
- 10.2 No Member shall release, make public, or in any way divulge any such Confidential Information acquired by virtue of his or her office unless expressly authorized by Council or required by law. The capacity to release Confidential Information can only be made by a majority of Council, and no individual member of Council has the authority to waive this privilege.
- 10.3 No Member shall use information gained in the execution of his or her office that is not available to the general public for any purpose other than his or her official duties.

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- 10.4 No Member shall access or attempt to gain access to Confidential Information in the custody of the Township except to the extent necessary for the performance of his or her duties as a Member and not prohibited by this Code or any other statute, By-law, or policy.
- 10.5 Members are only entitled to Confidential Information in the possession of the Township that is relevant to matters before the Council or Committee. Beyond this entitlement, Members have the same level of access to information as does any other citizen.

PART 11: COMMUNICATIONS AND MEDIA RELATIONS

- 11.1 In order to foster respect for the decision making process of Council, Members shall fairly and accurately communicate the decisions of Council, even if they disagree with a majority decision of Council, and/or voted in the minority. Members may publicly express disagreement with a decision, but are to do so in a respectful manner.
- 11.2 In communications with the media, Members shall not indicate, implicitly or explicitly, that they speak on behalf of Council, unless they have been authorized to do so by Council.
- 11.3 Members shall refrain from making disparaging remarks about other Members, members of the public, Employees, or Council's process and decisions.

PART 12: MUNICIPAL ELECTION CAMPAIGNS

- 12.1 Members of Council are required to comply with the *Municipal Elections Act, 1996*.
- 12.2 No Member shall use Township property, including the Township's logo, for any election campaign or campaign related activities.
- 12.3 No Member shall undertake campaign related activities on Township-owned lands, with the exception of the permissible use of campaign signs along road allowances, and in compliance with any local sign By-laws, as applicable.
- 12.4 No Member shall use the services of Employees in work for his or her (re)election during hours in which those Employees are being paid by the Township. The participation of Township staff with respect to municipal elections is generally discouraged.

PART 13: CONDUCT OF FORMER MEMBERS

- 13.1 The Township shall not hire or award any contract to any former Member for a period of 12 months from the date the former Member ceased to hold office except

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where the former Member is the successful bidder through a quote or tender consistent with appropriate Township policies.

- 13.2 A former Member may not lobby the Township or any Member for a period of 12 months from the date the former Member ceased to hold office.

PART 14: USE OF TOWNSHIP PROPERTY

- 14.1 Members may only use Township property, including land, facilities, equipment, supplies, services, staff, or other resources (for example, Township-owned materials, computers, networks, websites) for activities directly connected with the discharge of their official Township duties.
- 14.2 Occasional or incidental personal use of Township computers, phones, or similar devices and communication systems is acceptable, subject to the provisions of the *Municipal Elections Act*. Such use may also be subject to the *Municipal Freedom of Information and Protection of Privacy Act*.
- 14.3 No Member shall obtain financial gain from the use or sale of Township-developed intellectual property including inventions, cultural materials, computer programs, technical innovations, or other items capable of being patented, or copyrighted, as all such property remains exclusively that of the Township.

PART 15: NEPOTISM

- 15.1 No Member shall attempt to influence the hiring or promotion of a Spouse or Immediate Relative.
- 15.2 No Member shall make any decision or participate in the process to hire, transfer, promote, demote, discipline, or terminate a Spouse or Immediate Relative.
- 15.3 If a Spouse or Immediate Relative of a Member is an applicant for employment with the Township or candidate for promotion or transfer, the Spouse or Immediate Relative will proceed through the usual selection process with no special consideration.
- 15.4 No Member shall place himself or herself in a position where he or she could have influence over their Spouse or Immediate Relative's employment.
- 15.5 No Member shall attempt to use a Spouse or Immediate Relative relationship for financial or other gain.

PART 16: OBSTRUCTION OF INTEGRITY COMMISSIONER

- 16.1 No Member shall obstruct the Integrity Commissioner in the carrying out of their responsibilities.

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- 16.2 It is a violation of this Code to obstruct any staff member acting under the instruction of the Integrity Commissioner in applying or furthering the objectives or requirements of this Code, in attempting to gather information or data, or in the general conduct of duties with respect to a Code of Conduct investigation.
- 16.3 Examples of obstruction under sections 16.1 or 16.2 include the destruction of documents, the erasure of electronic documents, withholding or concealing the existence of documents, and refusal to respond to inquiries from the Integrity Commissioner within 15 days of receipt of same.

PART 17: REPRISALS

- 17.1 No Member shall seek any reprisal or threaten any reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner in the course of inquiry pursuant to a complaint.

PART 18: INTERPERSONAL CONDUCT AND COMMUNICATIONS

18.1 REQUIREMENTS

Members have important legal responsibilities and accountabilities in connection with the tone and substance of interpersonal interactions, conduct or communications pursued in the context of carrying out the activity of a municipal Councillor.

18.2 MUNICIPAL POLICIES

The purpose of this section of the *Code of Conduct* is to ensure that Members governed by this *Code of Conduct* understand and comply with standards of conduct required at law in terms of their interpersonal interactions, communications and conduct. In addition to this *Codes of Conduct*, the Council is also governed by the Respect in the Workplace policy.

The Municipal Corporation and Members, as agents of the Municipal Corporation, share important obligations for ensuring compliance with required standards of interpersonal conduct and interactions. A failure to adhere to the required Standards of Conduct can expose both the Township and individual Members to potential liabilities.

I *Human Rights Guarantees: The Obligation to Treat Every Person with Dignity, Understanding and Respect and Avoid Harassment and Discrimination*

The *Ontario Human Rights Code* extends equality rights guarantees in the context of employment and the delivery of services. A Municipal Government is both an employer and service provider.

As a result, the interactions and conduct of Members governed by this *Code of Conduct* generally occur in the context of providing services or interacting with employees.

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In connection with such interactions, Members have a legal obligation to ensure adherence to equality rights guarantees. Members have an obligation to ensure that all individuals dealt with are treated with dignity and respect, and not exposed to harassment or discrimination as prohibited by the *Human Rights Code*.

As a Member, your obligations in this regard extend to anyone you deal with in the context of employment or delivery of services, including but not necessarily limited to, the following: other Members of Council, Committee Members, Local Board Members, Corporate Employees, individuals providing services, contractors, students, and the public.

PART 19: COMPLIANCE / ACCOUNTABILITY / ENFORCEMENT

The Township has important obligations and interests in ensuring compliance with the ethical and interpersonal conduct standards required of Members by this Code of Conduct.

The Township has an interest and obligation to respond to all allegations, complaints, or incidents of alleged conduct inconsistent with the standards outlined in this *Code of Conduct* in a manner consistent with the interests and legal obligations of the Township.

The Township recognizes that the Township and the Members have a mutual interest in providing and encouraging access to compliance/enforcement mechanisms in connection with the conduct required by this *Code* that deliver objective, independent, skilled, and efficient determinations in connection with alleged misconduct by any Member.

The Township shall appoint an Integrity Commissioner, pursuant to Section 223.3 of the Municipal Act, to inquire into and determine any alleged non-compliance with the standards of conduct defined in the *Code of Conduct* and to investigate and advise on the (MICA) in March, 2019 and thereafter by a Member.

In all circumstances where the Township becomes aware of an allegation that a Member has engaged in any prohibited activity or breached any standard of conduct outlined in this *Code of Conduct*, whether by informal communications or formal complaints, the matter will be addressed as follows:

- (i) The “informal” complaint procedure attached as *Appendix 1* may be followed but is not mandatory;
- (ii) Any issue of non-compliance with the *Code of Conduct* shall be referred to the Integrity Commissioner through the Complaint Protocol attached as *Appendix 3*;
- (iii) The Integrity Commissioner shall conduct an Inquiry to determine whether the Member has engaged in conduct in contravention of the *Code of Conduct* (except as specified below in ‘Complaints or Reports Prior to an Election’);

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- (iv) In planning and pursuing the relevant inquiry, the Integrity Commissioner may proceed consistent with the procedural aspects of any policies addressing the subject of the alleged infringement and exercise his/her powers under Section 33 and Section 34 of the *Public Inquiries Act*;
- (v) The inquiry pursued by the Integrity Commissioner shall be an independent inquiry; independent of the Township or any of its agents, employees, or members;
- (vi) Where the Integrity Commissioner determines that he/she has reasonable grounds to believe that there has been a contravention of any other act or the *Criminal Code*, the Integrity Commissioner shall refer the matter to the appropriate authority; suspend his/her inquiry, and report the suspension to Council. In these circumstances, Council will pursue the necessary steps to ensure that the matter is addressed consistent with the Township's obligations at law and any relevant Township policies;
- (vii) Where the Integrity Commissioner completes an inquiry and determination of the matter, he/she shall prepare a written report of his/her findings as to whether a Member has contravened the *Code of Conduct*. In preparing the report, the Integrity Commissioner may disclose such matters as are necessary for the reporting to Council. The Report shall be delivered to Council. Where a contravention of the Code is substantiated, Council may impose the Penalty;
- (viii) The Township shall consider written reports/findings of the Integrity Commissioner in open session unless otherwise prohibited by another Act (eg. MFIPPA or regulation);
- (ix) Where the Integrity Commissioner determines that a Member has contravened the *Code of Conduct*, the Integrity Commissioner shall recommend the penalty; such penalty shall be within the remedial parameters defined in the *Municipal Act*;
- (x) Where a Code of Conduct breach is alleged,
 - i) the Member may take part in the discussion of the matter, including making submissions to Council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during, or after the meeting. However, the Member is not permitted to vote on any question in respect of the matter.
 - ii) In the case of a meeting that is not open to the public, the Member may attend the meeting or part of the meeting during which the matter is under consideration.

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Penalties

- (xi) Where a Member is found to have breached any standard of conduct required by the *Code of Conduct*, the penalty will be determined by the Council, on the advice of the Integrity Commissioner. In determining the penalty, the Council shall take into consideration the nature and degree of the current breach of the Code and any prior non-compliance with the *Code of Conduct* by the Member.

Penalties imposed in connection with breaches of the *Code of Conduct* pursuant to the Code may include:

1. A written reprimand; and/or
2. Suspension of remuneration paid to a Member with respect to services up to 90 days; and/or;
3. Remedial measures as recommended by the Integrity Commissioner (ie. apology and sensitivity training).

Refusal to Conduct Investigation

1. If the Integrity Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious, or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or where that becomes apparent in the course of an investigation, terminate the investigation.
2. Complaints referred that are repetitious in nature, not germane to the Code of Conduct in the opinion of the Integrity Commissioner, deemed frivolous and without substance in the opinion of the Integrity Officer, OR, where the complaint is deemed vexatious in the opinion of the Integrity Commissioner, such complaints shall not be advanced to an investigation stage.
3. Other than in exceptional circumstances, the Integrity Commissioner will not report to Council or a local board on any complaint described in subsections (1) and (2) except as a part of an annual or other periodic report.
4. An application for investigation may only be made within six weeks after the applicant became aware of the alleged contravention.

Complaints or Reports Prior to an Election

No complaint regarding a Member who is a candidate in an election may be accepted by the Integrity Commissioner for review and/or investigation between Nomination Day for a regular election and the ending of voting day in any year in

CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

which a regular municipal election will be held. The Integrity Commissioner shall hold such complaint in abeyance until after voting day in a regular election year and advise the complainant of the process.

PART 20: OTHER COMPLAINTS/ENFORCEMENT RIGHTS BEYOND THE REFERRAL TO THE INTEGRITY COMMISSIONER

While the Township encourages complainants, Members, and all parties to access and support the use of the Integrity Commissioner as the means of addressing any issues of non-compliance with the *Code of Conduct* by Members, the Township has an obligation and commitment to support complainants or potential complainants access to the following processes in connection with allegations of prohibited activity, conduct, or communications.

1. Complaints of Harassment (*Code or Personal*), Discrimination, Violence by Employees, Members of Council

- Access to the procedures committed to in the Township's relevant Policies (*i.e. informal resolution, mediation, complaint procedures*);
- Complainants also have a right to file complaints with *the Ontario Human Rights Tribunal (in connection with human rights allegations)* and complaints with the *Ministry of Labour (in connection with allegations of violence, threats of violence, or personal harassment)*;

2. Complaints Regarding Allegations of Conduct Regulated by the Criminal Code

- Complaints can be directed to the Elgin County Detachment of the Ontario Provincial Police to pursue an investigation under Section 122 of the *Criminal Code of Canada* where allegations of fraud or breach of trust are made in connection with a Member carrying out the duties of the office;
- Complaints can be directed to the Elgin County Detachment of the Ontario Provincial Police to pursue an investigation under Section 122 of the *Criminal Code of Canada* regarding allegations of a Member's involvement in demands for, acceptance of, offering, or agreement to accept a loan, reward, benefit, or their advantage from any person, in connection with the performance of the duties of the Member in the office;

3. Complainant's Direct Dealings with Members in Connection with Concerns of Non-Compliance with the *Code of Conduct*

- Any person who believes that a Member has infringed any standard under this *Code of Conduct* can advise the Member of the concern directly (*verbally or in writing*) that their activity infringes the *Code of Conduct*;

CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

- Such person (*complainant*) may directly encourage the Member to stop the offending activity;
- Such person (*complainant*) should keep a record of the incident, including date, time, location, persons present, and any other relevant information.

PART 21: JUDICIAL INVESTIGATION

In circumstances where liability is denied and the alleged misconduct is serious in nature, Council may pass a resolution, pursuant to s. 274(1) of the *Municipal Act*, requesting a judicial investigation into the Member of Council, or Council's Local Board or Committee Member's conduct.

PART 22: SUMMARY

The Township and all Members of Council share an important interest and responsibility in ensuring that the standards of conduct required under this *Code of Conduct* are understood, maintained and where necessary enforced by holding Members accountable.

The standards reflect the ethical and legal context in which the Township and Members must deliver services to the community served by the Council and Members. Deviations from the standards of conduct outlined in this *Code of Conduct* leave the Township, Council and individual Members exposed to the following:

- Reputational risk;
- Loss of credibility in the community; and
- Risks of significant liabilities.

All Members of Council are expected to be knowledgeable of the contents of this *Code of Conduct* and to adhere to the standards of conduct defined in the *Code of Conduct* and Policies.

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
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Appendix 1

INFORMAL COMPLAINT PROCEDURE

Individuals (for example, Municipal employees, members of the public, members of Council or local boards or organizations who have identified or witnessed behaviour or an activity by a member of Council or a local board that they believe is in contravention of the *Code of Conduct for Members of Council and Local Boards*, the “Code of Conduct” would address the prohibited behaviour or activity themselves as follows:

- (1) advise the member that the behaviour or activity contravenes the Code of Conduct;
- (2) encourage the member to stop the prohibited behaviour or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) tell someone else (for example, a senior staff member or an officer of the organization) about your concerns, your comments to the member, and the response of the member;
- (5) if applicable, confirm to the member’s satisfaction with the response of the member; or, if applicable, advise the member of your dissatisfaction with the response; and
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in *Appendix B*, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code of Conduct. With the consent of the complaining individual or organization and the member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining pursue the informal complaint procedure prior to pursuing the formal complaint procedure.

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
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Appendix 2

DUTIES OF A MUNICIPAL INTEGRITY COMMISSIONER

The Integrity Commissioner shall perform the duties and have the powers provided for in the Act, including but not limited to the following:

- (1) *Advisory*: Upon proper request, provide written and/or verbal advice to individual members of Council respecting the application of the Code of Conduct and/or any other procedures, rules, and policies relating to and reflecting upon their ethical behavior, including but not limited to, general interpretation of the Municipal Conflict of Interest Act (Ontario); and furthermore and when appropriate, providing the full Council with specific and general opinions and advice respecting compliance by elected officials in respect of the provisions of governing statutes the Code of Conduct and any other applicable procedures, rules, and policies.
- (2) *Compliance Investigation/Determinations*: Upon proper request from a member of Council or local board, municipal administration, or one or more members of the public, to conduct an inquiry and make a determination as to any alleged contravention of the Code of Conduct or applicable procedures, rules, and policies by a member of Council or local board and, thereafter, to report the details and results of such inquiry to Council.
- (3) *Educational*: Provide the Chief Administrative Officer or as directed with an annual report of activities during the previous calendar year as Integrity Commissioner, including but not necessarily limited to advice given to Council or individual members of Council and a summary of inquiry results and determinations; furthermore, provide outreach programs to members of Council and local boards and relevant staff on legislation, protocols, and office procedures emphasizing the importance of compliance with a Code of Conduct for public confidence in Municipal Government; and, furthermore, dissemination of information available to the public on the website operated by Malahide.

Notwithstanding that set forth above, the parties acknowledge and agree that the function of the Integrity Commissioner is to provide advice and opinion to Council and members thereof, to provide independent complaint prevention, investigation, adjudication, and resolution to members of Council and the public, and education respecting adherence with the Code of Conduct for members of Council and other procedures, rules, and policies governing ethical behavior.

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
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Appendix 2 (continued)

- (1) The parties hereto also acknowledge and agree that the Integrity Commissioner, will perform services, and in particular those services relating to advisory and educational duties, in a manner so as to avoid duplicated advice, opinion, and cost in respect of identical requests and inquiries – for example, the Integrity Commissioner shall decline to provide individualized advice and opinion to more than one member of Council or a local board on identical issues but should choose to provide general advice to Council or such local board as a whole to answer all such inquiries. In addition, it is recognized that the Integrity Commissioner, will likely receive requests for advice on matters involving compliance with the Municipal Conflict of Interest Act (the “MCIA”) – while the Integrity Commissioner may provide general interpretation of the MCIA, it is expected that individual members of Council or local boards will seek independent legal advice on a specific question of individual compliance with such legislation. (See *Appendix B*)
- (4) The application of sections 5, 5.1, and 5.2 of the Municipal Conflict of Interest Act to members of Council and of local boards will become the responsibility of the Integrity Commissioner effective March 1, 2019.

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
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Appendix 3

COMPLAINT PROTOCOL

- (2) Any member of Council, staff, or the public that believes they have experienced or witnessed conduct in contravention with the Code of Conduct may file a complaint and request an investigation.
- (3) All complaints shall be in writing and signed by an identifiable individual.
- (4) A complaint shall set out reasonable and probable grounds for the allegation that the member as contravened the Code of Conduct and include a support affidavit that sets out the evidence in support of the complaint.
- (5) The complaint protocol information package shall be available at the Township Clerk's office. (See *Appendix B*)

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Subject: Code of Conduct for Members of Municipal Council and Council's Local Board and Committee Members (hereinafter referred to as "Members")

MEMBER ACKNOWLEDGEMENT

The preceding Code of Conduct has been explained to me and I have received, read, and understood the Code of Conduct for The Corporation of the Township of Malahide.

Member Name (Please Print)

Member Signature

Date

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
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Appendix A

Council Code of Conduct Disclosure Statement

TOWNSHIP OF MALAHIDE

Council Code of Conduct

Part 7 of the Council Code of Conduct regarding the acceptance of gifts and benefits, requires members to disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$200.00 or if the total value of gifts and benefits received from one source in a calendar year exceeds \$1,000.00. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk within 30 days of receipt of such gift or benefit, or upon reaching the annual limit. Disclosure Statements are a matter of public record.

Nature of Gift or Benefit Received:

Source of Gift or Benefit:

Circumstances under Which Gift or Benefit Received:

Estimated Value of Gift or Benefit: \$ _____

Date Gift or Benefit Received: _____

Signature of Member: _____ **Date:** _____

Date Statement Received by Clerk: _____

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
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Appendix B

Council Code of Conduct – Fomal Complaint Form/Affidavit

TOWNSHIP OF MALAHIDE

Council Code of Conduct

AFFIDAVIT OF _____ (full name)

I, _____ (full name), of the _____ (City,
Town etc.) of _____ (municipality of residence) in the
Province of Ontario.

MAKE OATH AND SAY (or AFFIRM):

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

2. I have reasonable and probable grounds to believe that a member of the Township of
Malahide Council _____ (specify name of
member) has contravened section(s) _____ specify
section(s) of the Council Code of Conduct of the Township of Malahide. The particulars
of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, 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

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
THE CORPORATION OF THE TOWNSHIP OF MALAHIDE**

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*.

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

SWORN (or AFFIRMED) before me at the _____)
_____ (City, Town, etc.) of _____)
_____ in the _____)
Province of Ontario on the _____)
day of _____, 20____.)
_____) Signature
)

(Signature of Commissioner)
A Commissioner for taking affidavits etc.

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

**the TOWNSHIP of
MALAHIDE**
A proud tradition, a bright future.

TOWNSHIP OF MALAHIDE
Council Code of Conduct

(If more than one page is required, please copy this blank page and mark each additional page as 2 of 2, 2 of 3, etc. at the top right corner.)

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

SWORN (OR AFFIRMED) before me on this _____ day of _____, 20____.

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Appendix C

Council Code of Conduct – Request for Advice Form

TOWNSHIP OF MALAHIDE

Council Code of Conduct

Name of Member: _____

Telephone No.: _____

Email Address: _____

Advice Requested: (Please provide as much detail as possible. Attach additional pages if required.)

Signature of Requestor

Date Received by Integrity Commissioner

Date

Date Reply Issued

**CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR
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Appendix D

**Conflict of Interest Form
TOWNSHIP OF MALAHIDE
Council Code of Conduct**

Name of Member: _____

Date: _____

Meeting: _____

Agenda item number and name:

General Nature of the Conflict of Interest:

Signature of Member

Date Received by Clerk